United States Court of Appeals

for the Second Circuit



APPELLANT'S APPENDIX

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75-1040

IN THE

United States Court of Appeals

For the Second Circuit

No. 75-1040

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

against

DANIEL JORDANO, ANDREW JORDAN and ANTHONY MUFFUCCI,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLANT DANIEL JORDANO'S APPENDIX

UNITED STATES COURT OF APPEALS
FILED
MAR 26 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

LA ROSSA, SHARGEL & FISCHETTI
Attorneys for Defendant-Appellant
Daniel Jordano
522 Fifth Avenue
New York, New York 10036
687-4100

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DOCKET ENTRIES

THE UNITED STATES

vs.

CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, ANTHONY MUFFUCCI, RONALD CORBIA.

Proceedings

8- 1-74	Filed indictment.
8- 5-74	Deft. Charles Hodges produced on a writ. Writ satisfied (no atty). Court directs a plea of Not Guilty, 10 days for motions. B/W issued as a (illegible). Deft. fingerprinted and photographed.
	Deft. Daniel Jordano present (no atty). Court directs a plea of Not Guilty. B/W vacated. Bail fixed by court at $5,000 Personal Recognizance Bond. Deft. Andrew Jordano present (no atty). Court directs a plea of Not Guilty. Bail previously fixed by Magistrate at $5,000 Personal Recognizance Bond co-signed by wife.
	Deft. Anthony Muffucci present (no atty). Court directs a plea of Not Guilty. Bail previously fixed by Magistrate at $5,000 Personal Recognizance Bond.
	Deft. Ronald Corbia present (no atty). Court directs a plea of Not Guilty. Bail fixed by court at $5,000 Personal Recognizance Bond.

	Case assigned to Carter, J. as related to 74-cr-741. Stewart, J.
8- 7-74	Bench warrant issued for deft. Hodges.
8- 5-74	Jordano - Filed P.R.B. in the sum of $5,000.00 unsecured. - Clerk.
8- 8-74	Filed Government's notice of readiness for trial.
8-12-74	Case marked off Cal. - Owen, J. (in Part I)
8-21-74	Maffucci - Filed defendant's motion for a bill of particulars.
10- 2-74	Calvin Hill - Filed documents received from Mag. Raby -- Docket entry sheet; Indict. (illegible) Disposition Sheet.
10-15-74	Muffucci - Filed Notice of Motion for deft. returnable at a date fixed by Court, for dismissal, on Cts. 2 & 4, etc.; granting pre-trial hearings, etc.; further relief, etc.
10-15-74	Charles Hodges (atty present). Withdraws his plea of Not Guilty and pleads GUILTY to Count 3 only. Pre-sentence report ordered. Sentence adjounred to 11/26/74 at 9:30 A.M. Deft. continued on bail. - CARTER, J.
11- 1-74	Filed Govt's. Memorandum of Law.
11- 1-74	Filed Govt's. Memorandum of Law.
11- 1-74	Filed memo-endorsed on motion dtd. 10/15/74 -- Motion to dismiss ct. 2 & 4 and Paragraph 2 and 4 granted - Count 1 is denied. Motion for pre-trial identification hearing is granted - So Ordered - CARTER, J.

11- 4-74	Identification Hearing begun as to all defendants and (attys. present) except Charles Hodges. Hearing concluded. Motions denied - CARTER, J.
11- 7-74	Trial begun Daniel Jordano (atty. James Benard present), Andrew Jordan (atty. Golub present), Anthony Muffucci (atty. Edward Gasthalter present), Ronald Corbia (atty. Albert Gaynor) with a jury.
11- 6-74	Trial continued.
11- 7-74	Trial continued.
11- 8-74	Trial continued.
11-12-74	Trial continued.
11-13-74	Trial continued.
11-14-74	Trial continued.
11-15-74	Trial continued, Jury deliberations begun at 11:20 A.M. Jury returns with a partial verdict at 6:20 P.M. Deft. Corbia found Not Guilty on all counts. Defts. Jordano, Jordan and Muffucci found Not Guilty on Ct. 4. Jury resumes deliberations at 6:30 P.M. No verdict having been reached at 11:00 P.M. Jury ordered to return at 10:00 A.M.
11-16-74	Trial continued. Jury resumed deliberations at 10:00 A.M. Court declares a mistrial as to defts. Daniel Jordano; Andrew Jordan; Anthony Muffucci on Counts 1, 2 and 3.
11-29-74	Filed Affidavit for Writ of Habes Corpus ad Testificandum Issue.
12- 5-74	Filed transcript of record of proceedings, dated 10-1, 2, 1974.

12- 9-74	Filed Affidavit for Writ of Habeas Corpus ad Testificandum.
12- 9-74	Trial begun Daniel Jordano (atty. La Rossa present), Andrew Jordan (atty. Golub present), Anthony Muffucci (atty. R. Scanlon present) with a jury.
12-10-74	Trial cont'd.
12-11-74	Trial cont'd.
12-12-74	Trial cont'd.
12-13-74	Trial cont'd.
12-14-74	Trial cont'd. and concluded. Jury Verdict: Daniel Jordano-Guilty Counts 1,2,3 -- Anthony Muffucci-Guilty Cts. 1,2,3. Andrew Jordan-Guilty Counts 1,2,3. Pre-sentence report ordered. Defts. continued on present bail of $5,000. Personal Recognizance Bond as previously fixed by the Magistrate. As to deft. Andrew Jordan and Anthony Muffucci their bonds are to be co-signed by their wives. Sentences are adjourned to 1/28/74 at 9:30 A.M. (sic) Deft. Daniel Jordano's bond to be co-signed by Mrs. Muffucci.
12-16-74	Jordano - Filed P/R/B w/o security sum of $5,000.00.
12-17-74	Hodges - Filed transcript of record of proceedings dated 10-15-74.
12-17-74	Muffucci - Filed CJA 20 Appointing Edward Gasthalter, 233 Broadway, N.Y., counsel, original mailed to A.W. Wash. D.C. for payment - Carter, J.
12-17-74	Muffucci - CJA 20 - Copy 5, approving payment of counsel - Carter, J.
12-19-74	Writ satisfied - Metzner, J.

12-26-74	Filed transcript of record of proceedings dated Nov. 4,6,7, 8, 1974.
12-26-74	Filed transcript of record of proceedings dated Nov. 12, 13, 14, 15, 1974.
12-26-74	Anthony Muffucci - Filed personal recognizance bond without security in the amount of $5,000.
12-27-74	Filed govts. affdt. for w/h/c to produce Kenneth Williams as a witness. Writ issued, Tyler, J. Writ satisfied on 12/17/74 - Carter, J.
1-14-75	Filed Opinion #41729 - The issue to which the court on its own motion addressed itself is whether Andrew Jordan and Daniel Jordano misrepresented their financial conditions in obtaining court appointed counsel under the Criminal Justice Act. An evidentiary hearing to determine that question was held on Dec. 27, 1974. Accordingly, as to both parties, I conclude that there is nothing in the record to warrant changing the initial determination of the right of either deft. to court appointed counsel under the CJA Act. So ordered, Carter, J.
1-28-75	Anthony Muffucci - Filed Judgment (atty. Richard Scanlon present) -- as to counts 1, 2 & 3 (after being found guilty by a verdict) -- the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of Five (5) years on each of counts 1, 2 and 3 to run concurrently with each other. Bail pending appeal is fixed $7,500 cash or surety bond. Deft. advised of his rights to appeal. Carter, J. (Copies issued)
1-28-75	Andrew Jordano - Filed Judgment (atty. Benjamin Golub present)--as to counts 1, 2 & 3 (after being found guilty by a verdict)--the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of five (5) years on each of counts 1, 2 and 3, to run concurrently

with each other. Bail pending appeal is fixed in the sum of $7,500 cash or surety bond. Deft. advised of his rights to appeal. Carter, J. (copies issued).

1-28-75 Daniel Jordano - Filed Judgment (atty. James La Rossa present) - the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of five (5) years on each of counts 1, 2 and 3, to run concurrently with each other. Bail pending appeal is fixed in the sum of $5,000 personal recognizance bond, unsecured. Deft. advised of his rights to appeal. Carter, J. (copies issued).

1-30-75 Filed govts. memorandum of law re: testimony of Nancy Williams and 2nd trial.

1-30-75 Ronald Corbia - Filed defts. requests to charge.

1-30-75 Filed govts. memorandum of law re: admissibility of the hearsay statements of co-conspirators.

1-30-74 Filed govts. requests to charge.

1-28-75 Andrew Jordan a/k/a Andrew Jordano - Filed defts. notice of appeal to the USCA from the final judgment dated January 28, 1975. (copies mailed to U.S. Attys. office and to deft. at 253 North Bdwy, Yonkers, N.Y.).

1-30-75 Daniel Jordano - Filed deft's notice of appeal to the USCA from the judgment entered on January 28, 1975. Copies mailed to the U.S. Atty's Office and to deft's. home address at 2665 Grand Concourse, Bronx, N.Y.

2- 7-75 Anthony Muffucci - Filed defts. notice of appeal to the USCA from the judgment of conviction entered on Jan. 28, 1975. (Copies mailed to U.S. Attys. Office).

2- 6-75	Charles Hodges - (Atty. and deft. present) (atty. Jessie Berman) -- Sentence adj. to March 5, 1975 at 9:45 A.M. Carter, J.
2-11-75	Daniel Jordano - Filed CJA copy #2 appointing James Benard of 150 Bdwy, N.Y.C. 10038 as atty. for deft. Original mailed to AO, Washington, D.C. for payment.
2-11-75	Andrew Jordan - Filed CJA copy #2 appointing Benjamin Golub as atty. for deft. located at 10 E. 40 St., N.Y.C. Original mailed to AO, Washington, D.C. for payment.
2-19-75	Filed transcript of record of proceedings dated Dec. 9, 10, 11, 12, 1974.
2-19-75	Filed transcript of record of proceedings dated Dec. 13, 14, 1974 and Jan. (illegible).
2-24-75	Andrew Jordan and Anthony Muffucci - Filed Magistrate Raby's papers including appearance bonds: Jordan - Bond in the sum of $7,000 with Public Service Mutual. Marfucci (sic) - Bond in the sum of $7,500 with Public Service Mutual.

INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
UNITED STATES OF AMERICA,

v.

CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, ANTHONY MUFFUCCI, and RONALD CORBIA,

No. S 74 Cr. 764

Defendants.
----------X

COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of July, 1973, up to and including the date of the filing of this indictment, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, ANTHONY MUFFUCCI, and RONALD CORBIA, the defendants, together and with each other and with others to the Grand Jury known and unknown, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree to commit a crime against the United States of America, to wit, to violate Sections 2113(a), 2113(b) and 656 of

Title 18, United States Code.

2. It was part of said conspiracy that the defendants unlawfully, wilfully and knowingly, by force, violence and intimidation, would take and cause to be taken from the person and presence of another, sums of money belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York (hereinafter referred to as "the bank"), a bank whose deposits were then and there insured by the Federal Deposit Insurance Corporation.

3. It was further a part of said conspiracy that the defendants unlawfully, wilfully and knowingly, with intent to steal and purloin, would take and carry away and cause to be taken and carried away sums of money belonging to and in the care, custody, control, management and possession of the bank.

4. It was further a part of said conspiracy that the defendant RONALD CORBIA, then an employee of said bank, and the other defendants, unlawfully, wilfully and knowingly would purloin and wilfully misapply and cause to be purloined and wilfully misapplied sums of money

intrusted to the custody and care of said bank.

Among the means whereby the defendants would and did carry out said conspiracy were the following:

a) The defendant RONALD CORBIA would according to prearranged plan with the other defendants, carry a sum of money from the National Bank of North America, along Yonkers Avenue in Yonkers, New York towards his place of employment, the Yonkers Savings Bank.

b) At a designated location along the route, CHARLES HODGES, the defendant and another person known to the Grand Jury, would intercept CORBIA, forcibly subdue any accompanying bank guards, and seize the money; CORBIA would pretend to be a victim of the robbery.

c) The defendant CHARLES HODGES would thereafter deliver said proceeds to the defendant DANIEL JORDANO, who would, in turn, divide the proceeds among the other defendants.

OVERT ACTS

In furtherance of the said conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

1. On or about September 20, 1973, the defendants CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano and ANTHONY MUFFUCCI had a meeting in an apartment in Yonkers, New York at which time they discussed the robbery plans.

2. On or about September 21, 1973, the defendants CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano and ANTHONY MUFFUCCI went to a diner on Yonkers Avenue in Yonkers, New York and waited for a telephone call notifying them that CORBIA had left the bank with the money.

3. On or about September 21, 1973 at Yonkers Avenue, Yonkers, New York the defendant CHARLES HODGES took a bag containing approximately $36,500 from the defendant RONALD CORBIA.

4. On or about September 21, 1973 the defendant CHARLES HODGES placed the bag containing approximately $36,500 which he took from the defendant RONALD CORBIA in a 1973 blue Cadillac automobile with a white top.

5. On or about September 21, 1973 the defendants CHARLES HODGES and DANIEL JORDANO drove in a white Vega automobile to Fordham Road in the Bronx, New York to give

the defendant CHARLES HODGES his share of the money.

(Title 18, United States Code, Section 371).

COUNT TWO

The Grand Jury further charges:

On or about the 21st day of September, 1973, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, ANTHONY MUFFUCCI and RONALD CORBIA, the defendants, unlawfully, wilfully and knowingly did, by force, violence and intimidation, take from the person and presence of another, approximately $36,500 belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(a) and Section 2.)

COUNT THREE

The Grand Jury further charges:

On or about the 21st day of September, 1973, in the Southern District of New York, CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano, ANTHONY MUFFUCCI, and RONALD CORBIA, the defendants, unlawfully,

wilfully and knowingly, and with intent to steal and purloin, did take and carry away approximately $36,500 belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

(Title 18, United States Code, Section 2113(b) and Section 2.)

COUNT FOUR

The Grand Jury further charges:

On or about the 21st day of September, 1973, in the Southern District of New York, RONALD CORBIA, the defendant, then an employee of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, and CHARLES HODGES, DANIEL JORDANO, ANDREW JORDAN, a/k/a Andrew Jordano and ANTHONY MUFFUCCI, the defendants, unlawfully, wilfully and knowingly did purloin and wilfully misapply approximately $36,500 in cash intrusted to the custody and care of said bank.

(Title 18, United States Code, Section 656 and Section 2.)

Foreman

PAUL J. CURRAN

7-3-74

N A N C Y W I L L I S, called as a witness, having been duly sworn by the Foreman of the Grand Jury, testified as follows:

BY MR. HEMLEY:

Q Will you state your name, please?

A Nancy Willis.

Q And spell your last name?

A W-i-l-l-i-s.

Q Miss Willis, I want to direct your attention to the last summer, to the last August and early September.

Did you, at that time, know a man by the name of Danny Giordano? (sic)

A Yes.

Q And did you also know his brother, Andy Giordano?

A Yes.

Q Did you know a man by the name of Tony Muffucci?

A Yes.

Q And did you know the three of those men to associate with one another?

A Yes.

Q Specifically, directing your attention to August of 1973 or late in July, did you go to a bar in Yonkers by the name of the White Bridge Bar?

A Yes, I did.

Q And while you were in the White Bridge Bar, were you seated at the bar with Danny Giordano, Andy Giordano and two or three other white men whose names you don't know?

A Yes.

Q And did you overhear a conversation among the five men, that is Danny Giordano, Andy Giordano and two or three others whose names you don't know --

A Yes

Q -- regarding a bank messenger or bank employee who carries money from one bank to another?

A Yes, I did.

Q Could you tell us, in your own words, exactly what you best can recall was the substance of that conversation that you overheard?

A Well, I only heard bits and pieces of the conversation. They were talking about knowing somebody -- knew someone who was either friends with or knew somebody who was a bank messenger who carried some sums of money, but no names were mentioned.

Q No names of the bank messenger?

A No.

Q Was this conversation being carried on in a low tone of voice?

A Yes.

Q Was there also music playing in the bar?

A Yes.

Q Do you recall whether or not there was mention made, during that conversation, of the location of the bank?

A Well, there was something. I don't recall now, but I do recall that when -- a year ago or so, talk or spoke of this to a police detective something about Central Avenue in Yonkers.

Q And what was the name of that police detective?

A Detective Fielding in Yorktown. That is the best I can recall.

Q And to the best of your memory, was Tony Muffucci in the bar at the time the conversation was carried on?

A Yes.

Q But he wasn't seated at the bar with the people you described?

A No.

Q What was Tony Muffucci's nickname?

A Sonny.

Q Some time after you heard this conversation, did you report the content of this conversation to a policeman in Yorktown.

A Yes.

Q That is this Detective Fielding?

A Yes, that is right.

Q Did Danny Giordano lease, during the summer of 1963, a blue Cadillac with a white top?

A Some time in the summer he purchased this.

Q Did he purchase it or rent it?

A He leased it.

Q Did his brother, Andy Giordano, lease a car that was also a blue Cadillac with a white top?

A Andy has had that for some time.

Q Do you know where they leased the cars?

A No, I don't.

Q Do you recall, during the course of the conversation, there being any mention of the day on which the bank messenger was supposed to be carrying the money?

A No, I don't

Q Did you ever mention to the Yorktown police anything about it on Friday?

A I think I did before.

They said something about a Friday with relation to two weeks or three weeks previous to when I was talking to Detective Fielding. Danny had said something about not seeing me on a Friday because there was something big

planned.

Whether there is any connection, I don't know. I was having a casual conversation with Detective Fielding.

Q Was anyone else present at the time that Danny had something big planned for Friday?

A No, I don't recall. I don't remember whether it was in person or over the phone.

Q Do you know whether or not it was before or after the conversation in that White Bridge Bar?

A I don't remember. It might have been before.

Q Was it around the same time?

A I think so.

It had to be, because I saw Mr. Fielding in September. I used to go to the bar in July and August.

MR. HEMLEY: I have no further questions.

THE FOREMAN: You may be excused temporarily. Will you wait in the room next door?

THE WITNESS: Yes.

(Witness excused.)

(Witness resumes the witness stand.)

THE FOREMAN: May I remind you, Miss Willis, that you are still under oath?

THE WITNESS: Yes.

BY MR. HEMLEY:

Q What kind of work did Danny Giordano do?

A What his usual occupation is?

Q Yes.

A Well, he is an operating engineer and works construction. He has been in the furniture business, too.

Q And during the summer of 1973, las summer, he was working on construction?

A Yes.

Q During the spring and winter of 1973, had he been out of work?

A Well, in the spring, he was working, too. But in the winter, as much as I know, he wasn't working.

Q And what about Andy Giordano, do you know what he did?

A He does the same.

Q and Muffucci?

A I'm not sure. I don't know him that well. I know years ago he was a hairdresser. That is all I know.

MR. HEMLEY: I have nothing further.

THE FOREMAN: You may be excused.

(Witness excused.)

(Time noted - 3:31 P.M.)

- - -

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MR. LaROSSA: May I note the previous objections made so I don't have to repeat them with respect to this next witness.

If you would like me to, I will.

THE COURT: No.

So the record will be clear, you have a continuing objection if and when the Government exceeds the bounds of form with regard to direct examination.

MR. LaROSSA: Thank you.

...

N A N C Y W I L L I S, called as a witness by the Government, having been first duly sworn, testified as follows:

MR. HEMLEY: May I proceed?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. HEMLEY:

THE COURT: Miss Willis, you are going to have to speak up.

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE

THE WITNESS: Okay.

BY MR. HEMLEY:

Q Miss Willis, do you know a man by the name of Daniel Jordano?

A Yes.

Q Do you see Mr. Jordano in court this afternoon?

A Yes.

Q Could you identify him for us?

MR. LaROSSA: I will concede his identification.

THE COURT: All right.

Q Do you know a man by the name of Andrew Jordan?

A Yes.

Q Do you see Mr. Jordan in court?

MR. GOLUB: We will concede that as well.

THE COURT: All right.

Q Do you know a man by the name of Anthony Muffucci?

A Yes.

Q Do you see him in court this afternoon?

A Yes.

Q Would you identify him, please?

A The gentleman on the end of the table with the glasses.

MR. HEMLEY: May the record reflect identification of the defendant Anthony Muffucci.

THE COURT: All right.

Q Did you know these men during the summer of 1973?

A Yes.

Q How long have you known Andy Jordano?

A A little over three years.

Q And during the course of that three-year period how often have you seen him?

A Very often. I don't know what you mean.

Q Well, have you seen him every week?

A Just about, yes.

Q How many days of every week have you seen him?

A On the average? Two or three.

Q How do you consider your relationship with Daniel Jordano?

A Very close.

Q When was the last time you saw Mr. Jordano before today?

A Yesterday.

Q When was the last time before yesterday?

A The day before yesterday.

Q Before that?

A Friday.

Q Is it safe-- have you been seeing Mr. Jordano regularly?

A Yes.

Q Over the three-year period of time?

A Yes.

Q Do you know Mr. LaRossa?

A Yes, I do.

Q Have you ever met Mr. LaRossa before this afternoon?

A Yes, I have.

MR. LaROSSA: I don't have any objection to this. I don't understand this being direct testimony, though.

THE COURT: Let's proceed with the examination.

MR. HEMLEY: All right, your Honor.

THE COURT: There may come a reason for asking the question but it has not arisen yet.

MR. HEMLEY: I agree.

Q During the summer of 1973, did you ever see Andrew Jordan, Anthony Muffucci and Danny Jordano together?

A Yes.

Q On how many different occasions?

A Well, that I can be definitely sure of. Only two.

Q Can you describe their relationship?

MR. LaROSSA: I object to this.

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE
FOLEY SQUARE, NEW YORK, N.Y. CO 7-4580

Q If you know.

THE COURT: The objection is overruled.

A Well, Danny and Andy are very close because they are brothers. They have been in business together and socially they occasionally, in my presence, they have been together, not that much because usually I go out with Danny alone.

As far as Tony goes, they were in business together but I did not have that many occasions to see him when I was with Danny. But I think they are very good friends.

Q Now, directing your attention to the two specific occasions which you recall these three gentlemen being together, can you tell us when they were together and where they were together?

A You mean in the summer of 1973?

Q In the summer of 1973.

A Well, those occasions were in a bar in Yonkers.

Q Both of the occasions?

A Yes.

Q What was the name of that bar?

A The White Bridge.

Q Directing your attention to both of those occasions, did you ever overhear any conversations between

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE

Andrew Jordan and Daniel Jordano at the White Bridge Bar?

A Well, only a few words here and there. Nothing that I could be specific about.

Q Well, did you ever overhear either of them talk about a bank manager or a bank or the transfer of funds?

A To each other?

Q That you overheard.

A No.

Q Did you ever overhear such a conversation at which otherpeople including Daniel Jordano and Andrew Jordan were present?

A No.

Q Are you certain that you can't recall such a conversation?

A Nothing specific, no.

Q Do you recall testifying-- may I, your Honor? May I proceed in this fashion?

THE COURT: Yes.

MR. LaROSSA: Note my objection, your Honor.

THE COURT: I have already noted it, Mr. LaRossa.

Q Do you recall testifying in the grand jury in this building on July 3, 1974?

A Yes.

Q And I direct your attention to what has been

marked Government's Exhibit 3537, specifically directing your attention to lines 22 on page 2 through 22 on page 3.

Would you please review those lines of testimony? (Witness reading).

Q Have you reviewed that?

A Yes.

Q Does that refresh your recollection as to whether you overheard any conversation of the nature I have described between Daniel Jordano and Andrew Jordan in the White Bridge Bar in the summer of 1973?

A No, that does not make me remember a conversation.

Q Do you remember giving the answers to the questions that appear on these pages of transcript in the grand jury?

A Yes.

MR. HEMLEY: At this time the Government offers in evidence lines 22 on page 2 of Exhibit 3537 through line 22 of page 3 of Exhibit 3537.

THE COURT: All right.

MR. SCANLAN: I'll object on the grounds it is immaterial, irrelevant.

THE COURT: Your objections to it have been duly noted. You have a continuing objection so you may sit comfortably. It is being preserved.

MR. HEMLEY: With the Court's permission, may I read these lines to the jury?

THE COURT: Yes.

(Government counsel reads from Government's Exhibit 3537 in evidence to the jury.)

Q Did you ever hear, during the summer of 1973, Daniel Jordano make any other statements concerning a bank messenger or a bank manager or the transfer of funds?

When I say the summer of 1973, I mean including up through September of 1973.

A Well, I can't be 100% sure but he may have discussed some time earlier in the summer knowing a bank manager, somebody he could get a loan for his business, because he did discuss business with relation to banks.

Q Do you recall anything else?

A No.

Q Do you recall ever overhearing a conversation concerning banks or bank messenger or the transfer of funds between Anthony Muffucci and Daniel Jordano in September of 1973?

A No, I have never seen Tony in September of 1973.

Q Excuse me?

A I never even saw Tony in September of 1973.

Q I show you now what has been marked Government

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Exhibit 3536 for identification and Government's Exhibit 3538 for identification.

I ask you to read the last paragraph on the second page of 3538 and to read in its entirety 3536.

MR. LaROSSA: I'm sorry, would you give me those paragraphs again?

MR. HEMLEY: The last paragraph on the second page of 3538 and all of 3536.

(Witness reading.)

Q Have you read those?

A Yes.

Q Do either of these two documents refresh your recollection as to whether you overheard any conversation between Anthony Muffucci and Daniel Jordano during the summer of 1973 concerning banks or that in addition to the one statement you related, Daniel Jordano told you anything else about banks?

A No.

MR. HEMLEY: With the Court's permission, may I prceed in the manner in which we discussed earlier?

THE COURT: I did not hear the answer to the question.

THE WITNESS: No.

MR. HEMLEY: She said no.

THE COURT: Yes.

MR. LaROSSA: I ask for a limiting instruction at this time.

MR. HEMLEY: I join in that application.

MR. LaROSSA: I ask that the jury be instructed that these questions that are being asked of this witness are not admissible for proving guilt or innocence of these defendants but merely being offered with respect to the credibility of the witness.

MR. HEMLEY: I think that is entirely fair, your Honor, with the exception of the grand jury testimony.

THE COURT: I understand that but the point is I don't know what is in there.

I gather there are going to be statements in regard to the defendants' knowledge or participation and these statements are to be considered by you only in respect of your evaluation of the credibility of the testimony of this witness.

You are not to take the statements for the truth of anything regarding what these defendants have done, except in respect to the grand jury testimony, and I will instruct you as to that at some other time.

MR. HEMLEY: Thank you, your Honor.

Q Do you recall, Miss Willis, going to the Yorktown

Police Department on the 17th of September, 1973?

A Yes.

Q And do you recall meeting with Detective -- a Detective Fielding at that police station at that time?

And isn't it true you told Detective Fielding that Daniel Jordano and Anthony Muffucci had been in your apartment about a week prior to that and that you had overheard them talking that they were going to rob a bank on Central Avenue and Tuckahoe Road in the City of Yonkers on Friday morning?

A No, I never said such a thing.

Q You deny that you told him that?

A That's right. I deny it.

Q And if he were to testify that you did say that, it is your testimony that he would be mistaken?

MR. LaROSSA: Objection.

A That's right.

THE COURT: The objection is overruled.

Q Do you recall talking with a special agent of the Federal Bureau of Investigation, Lou Hahn, on October 9, 1973?

A I remember talking with him but I thought it was later than October 9th.

Q Let me show you this document again and I will

refer you specifically -- I am talking about 3536, to the first paragraph, and ask you if that refreshes your recollection as to the date of your interview with Special Agent Mahn?

A I can't be sure but if he says it was then, that's it.

THE COURT: You will have to keep your voice up. I can't hear you.

THE WITNESS: I said I can't be sure. I did not think it was that time in October. I thought it was later, but I do remember talking with him.

Q Was it around that time?

A Yes.

Q And do you remember that you went to the FBI on that occasion unescorted; that is, you went in to the FBI office by yourself?

A After they called me, yes.

Q In other words, the FBI made a call to you; in response to that call, you went to their office in White Plains?

A Right.

Q And no FBI agent came and picked you up and escorted you to the office?

A No.

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Q When you got to the office you had a conversation with Special Agent Hahn?

A Yes.

Q The office of the FBI in White Plains looks like any other office, is that right? It has desks and carpeting on the floor?

A Yes.

Q And when you talked to Special Agent Hahn you were seated at a desk and talked to him?

A No, he was seated behind the desk. I sat on a chair.

Q I meant that you sat on a chair.

A Yes.

Q And there was another FBI agent present at the time of your interview, is that correct?

A I think there were two.

Q You think there were two in addition to Agent Hahn?

A Yes.

Q Do you recall telling Agent Hahn on that day that Danny Jordano and a close associate of the individuals were definitely the individuals responsible for setting up the robbery of the bank messenger of the Yonkers Savings Bank in Yonkers, New York, in September of 1973?

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MR. LaROSSA: Objection.

MR. GOLUB: Objection.

Q And that you knew that because Danny Jordano had told you so?

THE COURT: Are you paraphrasing her statement?

MR. HEMLEY: I'm not really paraphrasing it. I'm reading it.

THE COURT: You are reading the exact statement she made?

MR. LaROSSA: No, sir.

Would your Honor look at this?

MR. HEMLEY: I'll read it exactly.

THE COURT: If you are not, I will have to sustain the objection. Don't paraphrase the statement. She made a statement and you are asking her about it and let's have what she said.

MR. HEMLEY: Your Honor, I would like to approach and ask your advice on one matter with respect to the contents.

THE COURT: All right, let me look at the statement. What is the paragraph in question?

MR. HEMLEY: It is the second paragraph, - the third paragraph.

THE COURT: And you were going to ask her about

the second full paragraph?

MR. HEMLEY: That is correct, your Honor.

THE COURT: I don't understand what the problem is.

MR. HEMLEY: If I may explain to you what I perceive is the problem.

THE COURT: Let's explain it out of the presence of the jury.

(At the side bar.)

THE COURT: I don't see anything in that paragraph .

MR. HEMLEY: Perhaps I'm being overcautious. My perception of this paragraph is that it contains certain material which would cause appellate problems under Bruton insofar as Nancy Willis tells about what Danny told her about Muffucci.

All I want to do is leave out Muffucci's name because I think properly only the confession of Danny made by Danny and not as it relates to anybody else should come in at this point. Otherwise, it may prejudice Muffucci.

MR. LaROSSA: I object to that right now . If these statements are going to be used, they should be used verbatim. There should be no deletion. If it is the Government's position deletion is necessary, they should

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move to sever the individual involved.

MR. HEMLEY: Thatis not necessary at all. I'll be glad to cite your Honor cases.

MR. LaROSSA: No. 2, there are conclusory statements. These are not verbatim statements that the witness made to this agent. When words are used like "apparently" or "indicated," I submit to you that that is not verbatim and can't be used.

THE COURT: I don't agree with that. I think that these were apparently the same kinds of statements that have been used in the vigorous cross-examination of Mr. Hodges.

When people are setting down, as far as I know, the results of interviews, and you ask him did he make these kinds of statements --

I think what I would advise you to do is to ask her did she make a statement to him -- did she tell the FBI or whoever, something about Jordano, that he was the one that committed the robbery.

If defense counsel want to bring in the other business about Mr. Muffucci, then that is what they can do. But I think it is admissible for you to limit your inquiry to ask her did she make the statement about Danny.

MR. HEMLEY: The only one we have not heard

from is Mr. Muffucci's attorney.

MR. SCANLAN: There is a conflict that I can see here as far as Mr. Muffucci is concerned.

I object to this document going in in part.

THE COURT: The objection is overruled.

MR. GOLUB: Your Honor, I don't feel in my position as defense counsel I want to raise that issue about Mr. Muffucci but I think it is certainly improper.

I think Mr. LaRossa's point is well-taken that if it does say Mr. Muffucci,he has to ask it the way it is. Otherwise, it is ambiguous.

THE COURT: He said something about an associate but my suggestion is that did she make that statement about Mr. Jordano and let it go at that.

MR. HEMLEY: Thank you, your Honor.

(In open court.)

BY MR. HEMLEY:

Q Miss Willis, did you tell Agent Hahn that Danny Jordano had told you he was responsible for the bank robbery of the Yonkers Savings Bank?

A No, I did not.

Q If Agent Hahn were to testify that you did tell him that in the presence of at least one other FBI agent, it is your testimony that he would be mistaken?

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MR. LaROSSA: Objection.

THE COURT: Objection overruled.

Q Do you have the question in mind?

A No. Please repeat it.

Q Yes.

The question is, if Agent Hahn were to testify that you told him Danny Jordano had told you he was responsible for the bank robbery, then Agent Hahn would be mistaken?

A That's right. He may have misunderstood me.

MR. HEMLEY: I have nothing further.

MR. LaROSSA: Is your Honor planning a mid-afternoon recess? If so, perhaps we could have it now.

THE COURT: We only have about four minutes left until the ordinary time, so we will take it now.

(Recess.)

(In open court, jury not present.)

MR. LaROSSA: Just for one moment before the jury comes in, I want the record to clearly be understood that my request for a limiting instruction was only because your Honor had ruled against my opposition to the entire procedure, and I was taking the lesser of the two evils.

I do not believe that the procedure was correct. That is the only reason I asked for it. I was not joining

into the procedure.

THE COURT: Mr. LaRossa, I'm sure that your opposition to the procedure id clear on the record.

MR. LaROSSA: I just wanted to be sure.

(Jury present.)

THE COURT: All right, Mr. LaRossa, let's proceed.

CROSS-EXAMINATION

BY MR. LaROSSA:

Q Miss Willis, you have met me, have you not?

A Yes.

Q As a matter of fact, you were in my office on one occasion, were you not?

A Yes.

Q Is that last week?

A Friday.

Q Aside from that I assume you have seen me here in the halls?

A Yes.

Q Did you come to my office and talk to me about this case?

A Yes.

Q Now, Miss Willis, there did come a time when you appeared at the Yorktown Police, is that correct?

A Yes.

Q And at the time you appeared at the Yorktown Police, you did so because you and Daniel Jordano were not getting along, is that right?

A More or less.

Q Was there any question about that?

A No.

Q You were not getting along, right?

A Right.

Q As a matter of fact, you went to the Yorktown Police specifically to get him into trouble, didn't you?

A That is not the only reason.

Q Well, Miss Willis, you went to the Yorktown Police and complained that some checks that you had in your possession were taken, is that right?

A Yes.

Q And you suggested to that police officer in Yorktown that maybe Daniel Jordano had taken the checks, is that right?

A Yes.

Q Mr. Jordano was not taking you out because of a fight or argument that you had? Is that right?

A Yes.

Q Now, you have seen Exhibit 3538, Miss Willis,

before, have you not?

A Yes.

Q This exhibit contains a reference to a bank, does it not?

A Yes.

Q On the latter page?

A Yes.

Q The bank that is identified in that exhibit is located at Tuckahoe Road and Central Avenue, is that correct?

A Yes.

Q Is that the Yonkers Savings Bank?

A I don't know.

Q Do you know where the Yonkers Savings Bank is?

A No.

Q No idea?

A I know it is in Yonkers.

Q But the bank youreferred to in that statement was Tuckahoe Road and Central Avenue, is that correct?

A Yes. I have seen this bank. I don'teven know the name of it.

Q Are you familiar with the portion of Yonkers referred to in Exhibit 1? Have you ever seen this exhibit before?

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A Well, I haven't seen it that well, no.

Q Do you see a Tuckahoe Road on that exhibit?

A I don't have my glasses on.

No, I don't.

MR. HEMLEY: We will certainly stipulate Tuckahoe Road is not on that map.

Q Now, Miss Willis, you also testified before a grand jury in this building, isn't that correct?

A Yes.

Q And you heard some of those questions being read off?

A Yes.

Q And the answers that you gave to that grand jury?

A Yes.

Q Were those answers true?

A No.

Q Why did you testify in that manner before a grand jury in this building?

A Well, the statement I made was actually a repetition of what was asked me before. It would have been suggested to me what various FBI agents made me feel that perhaps I had overheard. I overheard various conversations but I never overheard that, but it was just something that

combined with my imagination and combined with all the detectives, including Mr. Hahn, had told me about the robbery, all the details, all the various wording they used, such as bank messenger, which wasn't my words, and they had told me how they felt Danny was behind it and if I had ever heard any mention of banks, I should come forth.

They asked me where I had ever seen Danny and Andy and Tony that summer, so I had only seen them together in one place. I had seen them or overheard them talking but I really had not overheard any specific plan to rob a bank or any conversation about a robbery, although I had thought I had overheard them talk about banks which could have been in relation to anything.

Q Miss Willis, why did you answer those questions before the grand jury in the manner that you did?

A Well, for a variety of reasons.

Before I went in I was questioned and told what I was going to be asked and the manner in which I should answer, and prior to that I had been questioned and told what was important in order to make a witness of me, what I should say.

Q But you certainly knew those answers were going to get Daniel Jordano in trouble, did you?

A I don't think I really did.

Q Why did you give those answers? Were you concerned at all about yourself?

A Yes.

Q Why?

A I had been threatened to be involved.

Q Who threatened you?

A Other agents.

Q Who?

A Well, I spoke on several occasions with an FBI agent George Wisnovsky and then one that visited my home in Albany in February told me not to -- you know, to answer the best I could and not to evade any questions.

Of course, they never told me that I had the right to counsel myself.

MR. HEMLEY: I'm sorry, I didn't hear the last part of that. You were --

THE WITNESS: I was scared and I felt I had to answer something. They made me feel that I had to have overheard something and it was relevant.

Well, it is very hard to sum it all up because I was questioned so many times.

Q Did you ever hear Daniel Jordano talking about banks with respect to anything, Miss Willis?

A Yes.

Q In what manner?

A Well, he had a business and then he helped me open my business and both times we needed loans from banks and he said he knew people, managers in banks that could help initiate a loan.

Q Did you ever hear Daniel Jordano talk to anybody sitting at this table about planning any bank robberies?

A No.

Q Do you realize that that answer is different than the answer you gave in the grand jury?

A I don't think I said anything about robbery in the grand jury.

Q Did you ever mention anything about bank messenger?

A Yes.

Q Did you ever hear Daniel Jordano state anything about a bank messenger to any of these individuals sitting at the table?

A No.

Q But you did state that in the grand jury, didn't you?

A Yes.

Q Now, do you realize that by answering the question as you are now, you are subjecting yourself to perjury?

MR. HEMLEY: Objection.

THE COURT: I'm going to sustain the objection. She may not realize that at all.

MR. LaROSSA: I ask your Honor then to instruct the witness as to her constitutional rights at this time before I inquire any further.

MR. HEMLEY: I object to this, your Honor.

I don't think that is appropriate at all. If anything is appropriate, what is in her mind now, not what was in her mind after somebody told her her rights.

THE COURT: She has made statements. With regard tothat, Mr. LaRossa, I think she is aware of the fact that the statements are different.

So let's proceed.

Q Are you aware that the statements you have given here are different than the ones that you have given in the grand jury?

A Yes, I am.

Q Are you aware that based upon those distinctions in the two statements, you could be prosecuted for perjury?

A Yes.

Q Notwithstanding that, Miss Willis, I ask you again, did you ever hear Daniel Jordano discuss with any of the individuals at this table or anyone else anything about a bank robbery?

A No.

Q Or about a bank messenger or about a bank guard?

A No.

Q Do you remember what day this was that you appeared at the Yorktown Police?

A Yes.

Q What day was it?

A Monday, September 17, 1973.

Q Now, shortly after that, Miss Willis, did you call Daniel Jordano and get back together again with him?

A Yes.

Q Did you tell him anything about the statements you had made to the Yorktown Police?

A No. I just told him-- I didn't sign anything. I just went in and filed a complaint, more or less, to say that some masterchecks were taken and I did not sign them.

Q Do you know whether Daniel Jordano voluntarily went to the Yorktown Police Station?

Withdraw the question .

Do you know whether Daniel Jordano met with the same detective that you had this conversation with?

A Yes.

Q Was that a few days after that?

A I think it was that night or the next night.

Q After you made the report?

A Yes.

Q Do you know whether he voluntarily went to them?

A I think so.

Q Where were you living at that time?

A Lake Mohegan, New York.

Q Is that in Westchester County?

A Yes.

Q Miss Willis, I draw your attention to the 20th day of September, 1973.

Will you tell us, please, where you were working on that day, if you were?

A I was the owner and manager of an employment agency, NFI.

Q Speak up so we can all hear you.

A I was the manager and owner of NFI Employment Agency at Mamaroneck Avenue in White Plains. That is where I was.

Q The 20th of September was a Thursday. Did you work that day?

A Yes.

MR. HEMLEY: I assume, your Honor, that Mr. LaRossa is inquiring of Miss Willis now as his own witness.

THE COURT: Yes. I assume that, too.

You are now adopting the witness as your own.

MR. LaROSSA: I would assume that is correct.

See, we can all agree on some things.

Q Miss Willis, the 21st of September was a Friday. On Thursday evening, September 20th, did you see Daniel Jordano?

A Yes.

Q Where?

A Well, I picked him up. I met him, first of all, about 5:30 and together we drove up to my home in Lake Mohegan.

Q Did you stay there Thursday evening together?

A Yes.

Q On Friday morning, the 21st of September, were the two of you together?

A Yes.

Q Did you receive a phone call Friday morning?

A Yes.

Q Will you tell us, if you can, who called you Friday morning?

A Mrs. Patricia Murphy, my receptionist at my office.

Q Will you tell me who answered the phone, if you

know, at your residence?

A Danny.

Q Did he speak to someone?

A Yes, he spoke to Mrs. Murphy.

Q Didhe then give you the phone?

A No. She spoke with him and gave him the message to give to me.

MR. HEMLEY: Objection. Any content of any call, your Honor.

Q Did you then have a conversation with Daniel after receiving that call?

A Yes.

Q What did he tell you?

A He said,"You had an appointment with Mr. Cook this morning.

I said, "Yes, I had forgotten." And we had overslept.

He said that he is there, arrived about a half hour ago. He says, "I told Pat we would be there as soon as we could."

Q Who is Mr. Cook?

A The vice president of NFI, which is a franchise I purchased.

Q Tell me what occurred then, if anything?

By the way, what time was this, as best you can recall?

A About 10:30.

Q What happened then?

A I got dressed, had my coffee, and we left.

Q The two of you left?

A Yes.

Q Where did you go?

A To my office in White Plains.

Q What time did you arrive there?

A About twelve o'clock.

Q Do you know how far Lake Mohegan is from Yonkers?

A Yes.

Q Can you give me an idea how far it is?

A A good 45 minutes to fifty minutes, at least. That's going fast.

Q Did Mr. Jordano enter your business place on that day, that Friday morning?

A No, he dropped me off.

Q He just dropped you off?

A Yes.

Q And then he left?

A Yes.

MR. LaROSSA: I'm back on cross-examination now,

your Honor, if I may.

Q Miss Willis, did you ever hear Andy Jordan discuss with anyone anything about a bank robbery?

A No.

Q Did you ever hear Anthony Muffucci talk to anyone about a bank robbery?

A No.

Q Did you ever hear Andrew Jordano or Anthony Muffucci speak to anyone about a bank messenger?

A No.

MR. LaROSSA: I have no further questions.

MR. GOLUB: I have no questions of this witness.

MR. SCANLAN: No questions.

REDIRECT EXAMINATION

BY MR. HEMLEY:

Q Miss Willis, are you now telling us that you lied to the grand jury?

MR. LaROSSA: I object to this. It is cross-examination on the government's posture.

THE COURT: I beg your pardon?

MR. LaROSSA: The Government cross-examined with respect to this portion of the testimony.

MR. HEMLEY: Mr. LaRossa inquired about it.

MR. LaROSSA: I am suggesting thisis improper redirect.

THE COURT: As a matter of fact, it seems to me that the issue of what she said was different has been thoroughly explored by both you and Mr. LaRossa.

I don't see that anything can be gained by going over it any more.

MR. HEMLEY: I will ask several questions. If you think nothing can be gained by the first several questions, I will abide by your ruling.

THE COURT: Yes.

Q Daniel Jordano was not in the grand jury room when you testified?

A No.

MR. LaROSSA: Objection.

THE COURT: That objection is overruled.

Q And when you went to the Yorktown Police and spoke with Detective Fielding, Danny Jordano was not there on that occasion either, was he?

MR. LaROSSA: Objection.

THE COURT: Objection overruled.

A No.

Q When you spoke with Special Agent Hahan, Daniel Jordano was not there at that time, was he?

A No.

Q Now, you are a little bit afraid of being physically abused by Danny Jordano, aren't you?

MR. LaROSSA: I object to this.

THE COURT: I am going to overrule the objection because I think that you opened the door on motivation and I'm going to overrule the objection.

MR. LaROSSA: Note my objection and may I reserve my right at a later time outside the presence of the jury to make certain motions addressed to it.

THE COURT: Of course.

Q Is that correct or incorrect?

A Incorrect.

Q Didn't you tell Agent Hahn-- you recall speaking to Agent Hahn?

A Yes.'

Q I'll show you again a different paragraph of 3536.

MR. LaROSSA: I object to this because he asked the question in its present form. Now he is referring to a statement that was made a year ago.

MR. HEMLEY: I'm sorry. That is quite right.

Q During the summer of 1973 and into the fall, at least through October of 1973, were you then afraid of

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physical abuse from Danny Jordano?

MR. LaROSSA: Object to this.

THE COURT: You have a standing objection. It is overruled.

A No, I'm not afraid of him. I wasn't.

Q I'm not asking you now. I'm asking you then. Were you then afraid of him?

A No.

Q I now show you Exhibit 3536 and I specifically refer you to the second paragraph on that page. Would you look at that, please?

A Yes.

Q Does that refresh your recollection as to whether or not in October of 1973 you were afraid of physical abuse from Daniel Jordano?

A I never made this statement.

Q I'm not asking you that. If you will listen carefully to the question; does this refresh your recollection with respect to the matter I just inquired about?

A I don't know what you are asking me.

Q I'm asking you, after you looked at that paragraph, you have studied it, you have read it?

A Yes.

Q Does that in any way cause you to change your answer with respect to being afraid of Daniel Jordano?

MR. LaROSSA: Objection.

THE COURT: Specify the time.

Q As of October of 1973.

THE COURT: Objection overruled.

A No.

Q Didn't you tell Agent Hahn that you were afraid that if Danny Jordano knew you were talking to the FBI, he would kill you?

MR. LaROSSA: Object to this.

May it please the court, I don't see where this is in response to anything that was asked this witness by me.

THE COURT: I disagree, Mr. LaRossa.

MR. LaROSSA: Note my strenuous objection, Judge.

THE COURT: Objection is overruled.

I think, and you can make your motions later, that you opened the door.

A No, I don't recall saying those words.

Q If Agent Hahn were to testify that you did say them, your opinion is that he would be incorrect?

A Well, I don't recall saying them and I don't

recall him writing them down when I was talking with him.

All I can recall is him reading to me from a paper an account of the robbery and telling me all the details.

I do recall telling him that Danny and I had a fight the week before. He may have grabbed my arm and I may have punched him back but that does not mean I'm deathly afraid of him.

Q You did have a fight, as you testified upon Mr. LaRossa's examination, with Danny Jordano, during September of 1973?

A Yes.

Q You went to the Police about it?

A About the fight?

Q Is that right?

A Not really.

Q Isn't that what you said when Mr. LaRossa asked you that question?

MR. LaROSSA: Objection.

THE COURT: That is a misstatement, as I understand the testimony.

MR. HEMLEY: I'm sorry, your Honor.

THE COURT: Her testimony was she had a fight, as I recall, and before she went to the Police -- she was

missing checks. That is what I recall the testimony to be.

Q Didn't you go so far, Miss Willis, as to get a restraining order from the Yonkers Police Department restraining Daniel Jordano from seeing you?

MR. LaROSSA: Objection, your Honor.

THE COURT: The objection is overruled, Mr. LaRossa.

A No, I never went to anybody to receive a restraining order.

Q Do you recall meeting with Detective Jack Raffa of the Yonkers, New York Police Department?

A No, I don't recall ever meeting that man.

MR. LaROSSA: Your Honor, I ask that the jury be given an instruction, questions of that type, which are highly prejudicial, are not evidence of anything, if there is a "no" answer.

THE COURT: I will instruct the jury that if a question is answered "no," the question is not evidence.

Q Do you recall ever having told Detective Fielding that you saw Detective Jack Raffa?

A No. As best I can remember, one of those men, one of the FBI men, it couldhave been Mr. Hahn, said, I think at one timehe gave me this Detective Raffa's name

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and number and said, "If you ever have any trouble, if he ever bothers you, call him up."

I never went and filed a restraining order or spoke to any policemen about this.

I don't know where he got that from.

First of all, I was told you had to go to Family Court to get a restraining order.

Q Who told you that?

MR. LaROSSA: I object to this and move it be stricken.

THE COURT: What was the answer?

MR. LaROSSA: There was no question.

THE COURT: There was an unsolicited answer.

(Record read.)

Q My question is who told you that?

THE COURT: Objection overruled.

A Who told me?

Q Yes.

A A friend of mine once told me.

MR. LaROSSA: What was the answer?

THE COURT: A friend of hers told her.

MR. LaROSSA: Now I move to strike the answer.

THE COURT: Overruled.

Q Are you familiar generally with Yonkers, New York?

A With some of the streets, the main streets.

Q Are you aware that Yonkers Avenue and Tuckahoe Road is about three miles north of the Yonkers Savings Bank at Yonkers Avenue and Central Avenue -- excuse me, I meant Central Avenue and Tuckahoe Road.

Are you aware of that?

A Please repeat that.

Q Are you aware that the-- that there is a bank at Central Avenue and Tuckahoe Road approximately three miles north of the bank at Yonkers Avenue and Central Avenue?

MR. SCANLAN: Objection, your Honor.

THE COURT: Objection overruled.

A I know there is a bank onTuckahoe Road and Central Avenue and I know there's banks on Yonkers Avenue.

Q You said that the FBI agent in Albany who saw you-- do you rememberhis name, by the way?

A It couldhave been Mr. Healy.

Q What?

A Healy.

Q He told you, as you testified upon Mr. LaRossa's examination, that you should not evade any questions which might be put to you in the court; is that correct?

A Yes, more or less.

Q Does that mean to you or did that mean to you that you were being threatened by the FBI?

A No.

Q So when you said that that agent threatened you, that wasn't true, was it?

A I didn't say he threatened me.

Q I'm sorry.

A He just scared me, frightened me.

Q He frightened you by telling you not to evade any questions which might be put to you in court?

A That's not all he said.

Q What else did he say?

A If I wasn't careful, I could be involved in something very serious.

Q An agent in Albany, New York, told you that?

A Yes. I have had several agents talk to me along those lines.

Q Are you aware that this case has been investigated from start to finish by the FBI in White Plains, New York?

MR, LaROSSA: Objection.

A Yes.

THE COURT: She has answered the question.

MR. LaROSSA: I don't think that's proper.

THE COURT: Well, the objection is overruled, Mr. LaRossa.

Q Who else threatened you?

A I don't understand what you mean by that.

Q Did you or did you not testify that you felt that you had been threatened by the FBI?

A Yes.

Q And who besides Agent Healy do you feel threatened you?

A By saying the word "threatened," I mean scared and frightened to being involved in something of which I did not know about. I didn't know what they were asking me all these questions about.

Q Which agents frightened you?

A Well, there were several agents over the last year.

Q Agent Wisnovsky, did he frighten you?

A He didn't really threaten me but he made me scared.

Q How didhe make you scared?

A Because he even asked me if I was scared and I said yes.

Q Well, is it your testimony now that because he said-- he asked you if you were scared, that that intimidated

you?

A No.

Q What was it that Agent Wisnovsky said to you that intimidated you and that made you testify falsely in the grand jury?

A I'm not saying the reason I testified in the grand jury had to do with it.

Q I didn't hear that.

A Had to do with Mr. Wisnovsky, I didn't say that.

Q What did you say about Agent Wisnovsky? What did he say that scared you or threatened you or frightened you?

A Well, I just told you.

Q I'm sorry, I didn't hear it if you told me.

I would like you to repeat it.

A I told you that practically all of the agents that have ever talked to me have made me feel like there was a possibility I could get involved.

Q Well, can you remember any one specific thing that Agent Wisnovsky told you that made you feel frightened or threatened?

A Well, I can't remember exact words.

Q Well, approximate then.

A Well, he said different things like "We know they

did it, and if you don't come forth, you may be involved, you may get into trouble."

Q When did he tell you that?

A Well, the last time I talked to him I think was February, 1973 -- 1974, I'm sorry.

Q Who else frightened you?

Where did the interview take place in February 1973, where Agent Wisnovsky frightened you?

A Pardon me?

Q Where did that interview take place in which Agent Wisnovsky frightened you?

A Well, I saw him in the White Plains office. He had asked me to stop there before I came down here. Then I was subpoenaed to come down here to speak with a Mr. Nesland. There was another agent in there who I didn't know. After they interrogated me --

Q The Assistant United States Attorney Nesland, did he interrogate you?

A Yes, him and another gentleman.

Q What do you mean by interrogate? Is what I'm doing now interrogating?

A No, they asked me many, many questions.

Q Well, do you feel that Assistant United States Attorney Jim Nesland intimidated you, did he frighten you,

did he threaten you?

A Did he threaten me? Well, he told me not to talk to Danny. He said I could be in big trouble if I did.

Q That frightened you?

A Yeah.

Q That caused you not to tell the truth in the grand jury?

A By the time I got to the grand jury I was very upset.

First of all, I have never had anything to do with any police officers in any way, shape or form prior to this. I was very nervous, very confused,and very sick, physically as well as mentally.

Q Is that for the entire period?

A So many things had been suggested to me and told to me that if I heard anything, I had to come forth. By that time I was believing that maybe I had heard something.

Q And during this period of time did you speak to Danny Jordano from the summer of 1973 to when you testified here in court today?

A Would you please say that again?

Q Didn't you testify that you have been seeing

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Daniel Jordano regularly and spending days and nights together with him throughout this period of time you are talking about?

A Yes.

Q You feel that Daniel Jordano influenced or threatened you in any way?

A No.

Q But you feel that the FBI did?

A Yes.

Q How many times would you say you saw the FBI or any police officer including representatives of the United States Attorney's Office from the summer of 1973 until you testified today?

A Maybe eight or nine times.

Q And on each of those occasions do you feel that some agents of the United States Government threatened you or intimidated you?

A A better word is scaring me.

Q Did I scare you?

A Yes.

Q And do you feel that I threatened and intimidated you?

A Yes.

MR. HEMLEY: Just one moment, your Honor.

Q Have you ever spoken to Danny Jordano about this case?

A Yes.

Q How many times have you talked to him about the case?

A Over what period? All the time you mean?

Q Taking the large period first, from September of 1973 until the present time.

A Maybe on six different occasions.

Q How extensive a discussion did you get into with Danny Jordano on those occasions?

A How extensive?

Q Yes.

A That's hard to say. The first time I spoke to him about it, I told him how I had been questioned, how I had said that he had been with me the 20th and the 21st. How that was passed off.

This only started since this court proceeding started, about a month ago.

Q Did you discuss with Danny the fact that you were going to testify here today?

A He knew I was going to testify here today.

Q Did you talk to him about it?

A Yes.

Q And didn't he in fact arrange for you to meet with Mr. LaRossa?

A Yes.

Q When you met with Mr. LaRossa, was Danny Jordano present?

A Yes.

Q At that time did you discuss the case?

A Well, somewhat, yes.

Q Was there any doubt that you talked about your testimony here in court?

A Basically Mr. LaRossa asked me about September 20th, 21st.

Q And you talked about the questions Mr. LaRossa would ask you here in court?

A Somewhat.

Q During that entire period of time Mr. Daniel Jordano was present?

A Yes.

Q Did you feel frightened or intimidated during that session?

A No.

Q Have you given Daniel Jordano any gifts recently?

MR. LaROSSA: Objection.

THE COURT: I'm going to sustain that objection.

Objection sustained.

Q Have you received anything from Danny Jordano recently?

MR. LaROSSA: Objection.

THE COURT: Objection sustained.

Q Now, turning to the events of September 20th, it is your testimony that you spent the evening of that day with Danny Jordano, is that correct?

A Yes.

Q And why do you remember September 20th so clearly?

A Well, I remember the following day.

Q Why do you remember the following day?

A Because I was late for an important appointment.

Q Is it the fact that you were late for an important appointment that made you remember that day?

A Sure. As a matter of fact, every time I was late for an appointment in my office, Danny was with me the night before.

Q Let me ask you this. You business at the NFI Employment Agency was to place people in various positions, is that correct?

A Yes, but I managed the office.

Q Did you also place people?

A Yes, I was involved somewhat in the placements.

Q And would it be fair to say that the business of employment agencies is to meet with various people and to make daily appointments to see numbers of different people?

A Yes and no. Actually in that business, it is the nature of the business to be in the office most of the time and on the phone.

Q You meet with people during the day?

A Well, applicants that come in seeking jobs.

Q Don't you also meet with prospective employers?

A 10% of the time. Most of the time they just use the phone and call. They don't come in person.

Q Don't you also occasionally meet with representatives of- - let me ask you this. NFI was a franchise, is that correct?

A Yes.

Q And you also sometimes met with representatives of the parent corporation, NFI's parent corporation, right or wrong?

A Right.

Q So it is safe to say-- when did you start with NFI?

A Well, in January of 1973 I began inquiring about the purchase of it. And by February 5th I was the owner.

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Q And when did you, if ever, cease to operate NFI?

A Approximately December 15, 1973.

Q Is it fair to say that from February 1973 right on through until December of 1973 you were actively engaged in the employment agency business?

A Yes.

Q And is it fair to say that during that period of time you met with many different people?

A Sure.

Q And you had many different appointments, is that a fair statement; yes or no?

A Yes.

Q And is it fair to say that you were late on many occasions for appointments?

A No, not on many occasions.

Q How many occasions would you say you were late?

A In the entire year?

Q Yes.

A Maybe four times.

Q Four times is all?

A Yes.

Q You are sure about that?

A Yeah.

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Q So because you were late for this particular appointment, you remember that the date was September 21?

A Well, I didn't just pull it out of my head. I have an appointment book.

Q Do you have that book with you?

A I have it in my car in the parking lot. I didn't bring it with me.

Q Were you asked to bring it with you?

A No.

Q You have your 1973 appointment book?

A Yes.

Q But you haven't brought it in?

MR. LaROSSA: It is in the car, she said, in the parking lot.

A I didn't see any reason to. The other times nobody asked for it.

Q Now, could you possibly be mistaken about the date September 21?

A No.

Q Have you memorized the dates of all the appoint - ments that you had with representatives of the parent corporation?

A Have I memorized them?

Q Do you know them? You know September 21. Do

you know any other dates?

A Yes, I know them.

Q Let me ask you on how many occasions during 1973 did you meet with a representative of NFI Employment Agency?

A About ten times.

Q And let me ask you to give us the ten days upon which you met with a representative of the NFI Employment Agency.

A January 22, January 23, February 2, March 8, July 13 --

Q July which?

A 13th, August 3rd, August 24th.

Q August -- what was the date?

A --24th, September 7th, September 21st and October 5th.

Q I got it through September 21.

What was the last date?

A October 5th.

MR. LaROSSA: 5th?

THE WITNESS: Yes.

Q You are sure of those ten dates?

A Yes.

Q You are absolutely sure?

A Yes.

Q You have not made any mistakes?

A No.

Q September 21 is definitely one of them?

A Yes.

Q Are you aware that you just gave me eleven dates?

A Pardon me?

Q Are you aware you just gave me eleven dates?

MR. LaROSSA: She gave me ten. I was listening too.

MR. HEMLEY: I'm sorry to dispute it, it is eleven.

January 22, January 23, January 24 --

MR. LaROSSA: She didnot say January 24.

THE WITNESS: I said January 22 and January 23.

MR. LaROSSA: February 2 was the third one given. The transcript will show it.

Q What were the other dates?

A You want me to go through them again?

MR. LaROSSA: I object to this.

A January 22, January 23, February 2, March 8, July 13, August 3, August 24, September 7, September 21, and October 5.

Q October 5th?

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A Yes.

Q Do you recall being asked in a proceeding in this court to give those ten dates on another occasion?

A Yes.

Q Let me show you,and I'm referring now to page 670 of a prior transcript.

Review beginning at line 17 of page 670 through line 7 -- actually 6 of 671.

(Witness reading.)

Q You have reviewed those?

A Yes. I just gave you half of them.

Q You say you just gave me half of them?

A More or less. As I said there, if I reviewed my appointment book, which I did, I could give you every date and I did, as I did for the 21st. It refreshed my recollection.

Q I'm sorry, I didn't hear you.

A I said it says in that testimony after I gave you maybe five or six dates, that if I reviewed my appointment book, which I had done between that time and now, I cold give you every date, which I did.

Q. Are you aware that you originally stated August 25th and now you said August 24th?

A I don't have a calendar in my head.

MR. LaROSSA: Objection.

Q Didn't you originally say August 25th was the day you met?

THE COURT: Read the question and the answer if you are going to confront her.

Q The question is --"take your time" and the answer is "August 25, a Friday. He came in August two Fridays. I remember that specific day because I had it written in my appointment book which I told you I checked in July also."

MR. LaROSSA: I object to this being taken out of context.

MR. KEMLEY: I will read it all.

Q Do you remember giving these answers to the following questions, starting with page 669, line 25.

"Q You are telling us that you remember September 21st because you had a meeting on that day?

"A That was with the vice president. It was a franchise and he was the vice president of the corporation.

"Q Did you ever meet with him before?

"A Yes.

"Q How many times did you meet with him before?

"A Before I bought the agency or after or all together?

"Q All together.

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"A Ten."

MR. LaROSSA: I object to this. It is absolutely consistent with the witness' testimony.

MR. HEMLEY: It won't be when I get to the part that Mr. LaRossa said I took out of context.

THE COURT: You said it was taken out of context?

MR. LaROSSA: Because of that one question that was being chosen from the middle of the page.

THE COURT: You said it was out of context and he is now reading it all, Mr. LaRossa.

"Q Can you tell us the ten other dates?

"A January 22, January 23, or 24, these were prior to buying the agency.

"Q When else?

"A February 1st or 2nd, March 8th, I believe, the day I got my license, some time in July. Just a moment, I'll remember the date. I just want to remember the date.

"Q Take your time.

"A August 25, a Friday. He came in August two Fridays, I remember that specific day because I had it written on my appointment book which I have checked, I told you in July, I checked it also. So I have my appointment

book and I can tell you every day.

"Q Is that your answer?

"A Yes."

Q Miss Willis, where did you start out on the 20th of September?

A At what time?

Q When you began to proceed to Mohegan Lake?

A Well, I left my office at five o'clock. I didn't go directly to Mohegan Lake.

Q Where did you go?

A Went to Yonkers to pick up Danny.

Q Where?

A Went to Yonkers to meet Danny.

Q Where did you meet Danny?

A On the corner of Odell and Nepperhan Avenue.

Q Is that near where Danny was living at the time?

A Yes.

Q Do you know who, if anyone, Danny was living with?

MR. LaROSSA: Objection.

THE COURT: The objection is sustained insofar as that question is concerned.

It seems to me it is beyond and we are getting a little confused as to what is direct and cross.

MR. HEMLEY: I am on cross as far as this goes.

THE COURT: But it is beyond the direct examination by Mr. LaRossa, if you are cross-examining her.

MR. HEMLEY: I am cross-examining, your Honor, with respect to the events of the 20th and 21st to test the probity of that testimony.

I submit that I can inquire into it.

THE COURT: Who he is living with; what has that to do with her direct?

MR. HEMLEY: I won't go into it then.

Q Who did you tell that you were going to Mohegan Lake with Danny Jordano?

A I don't believe I told anybody.

Q Is that where you were living in the summer of 1973?

A Yes.

Q In whose car did you go?

A In my car.

Q What kind of car is that?

A 1973 Mark IV, Lincoln.

Q Who drove, you or Danny Jordano?

A Danny.

Q And what time did you get to Mohegan Lake?

A It had to be about 6:30.

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Q What did you do after you got there?

A We had dinner, drinks.

Q Did you talk about anything?

A I imagine we talked.

Q Did you talk about the fact that you had gone to the Yorktown Police Department and complained about him?

A Well, this was like two weeks-- well, no, that's right, it was the week before. But the matter had been more or less settled prior to that.

Q You had gone to the police stateion on September 17th and by September 20th the matter was completely resolved?

A Yes. Danny came up that very same night and said thathe would pay the bank back and straighten out --

Q I'm very sorry but I didn't hear your answer.

MR. LaROSSA: I move to strike it anyway.

I object to it.

MR. HEMLEY: I can't respond, not having heard it.

THE COURT: Objection overruled.

A I said Danny had come up that same night and said that he would take care of it and straighten it out with the bank, which he did, and promised to pay it back.

But I wasn't obligated to pay it because I had

made the report at my bank's request. So it was all straightened out.

Q Pay what back?

MR. LaROSSA: Objection.

THE COURT: The objection is overruled.

A Well, the money he had borrowed on the checks. It is like a loan type of thing.

Q Was it a loan that you knew about?

MR. LaROSSA: Objection.

THE COURT: Objection overruled.

MR. LaROSSA: May I have a continuing objection to this line?

THE COURT: Of course.

A I knew about it as of the 17th.

Q You didn't know about it as of the date the loan was made, did you?

A No.

Q So it wasn't really a loan, was it?

A Well, Masterchecks are a loan type of thing.

Q In other words, you loaned the money to Daniel Jordano but you didn't know you loaned it until you found the money was missing?

MR. LaROSSA: If it please the Court, this is not cross-examination at this point. This is not something

I brought out on direct.

THE COURT: My recollection is entirely different, Mr. LaRossa. I think that you did.

MR. LaROSSA: The Fielding visit, if it please the Court, to Yorktown was in response to the prosecutor's question.

THE COURT: Yes, but you probed into it and the objection is overruled.

Obviously, you have a continuing objection to it.

A Repeat that, please.

(Question read.)

A On those particular checks, yes.

Q How much money was that?

A About $500, $600. But I had given him checks prior to that that I know of.

Q How were those Masterchecks made out?

A How are they made out?

Q Yes, describe one of them.

A Just like an ordinary check. It looks just like an ordinary check.

Q What is a Mastercheck?

A Do you know what a Mastercharge is?

Q Yes.

MR. LaROSSA: I ask for an instruction at this time that this testimony is not being offered by the Government with respect to the guilt or innocence of these defendants.

THE COURT: I think it is very clear.

In any event, Mr. LaRossa, I will instruct the jury that all of these questions in regard to this matter are conversations which are being inquired into, the Govenment is testing her credibility and they have nothing to do with the guilt or innocence of the defendants or with whether they did or did not do the acts for which they are charged here.

They are merely for you to evaluate the testimony of the witness.

Q I do know what a Mastercharge is. Now tell me what a Mastercheck is.

A I had a Mastercharge account and they sent me a group of checks to use the same as the card but the difference is you could pay any kind of a bill.

Q Whose name is on the checks?

A Mine.

Q In order to negotiate a check, is it necessary for the person whose name is on the check to sign it?

A Yes.

MR. LaROSSA: May I have a continuing objection to all of this?

THE COURT: Yes.

Q You never gave Daniel Jordano permission to sign your name to $600 worth of Mastercharge checks, did you?

A Not those specific checks, no. But I had given him some before, a couple, which I had already signed.

Q How long had you not been seeing Daniel Jordano prior to your trip to the Yorktown Police on the 17th?

A Only about a week.

THE COURT: I didn't hear the answer.

THE WITNESS: I said only about a week.

THE COURT: I'm having difficulty, Miss Willis.

Q During that week, did you have any contact with him?

A I may have had one phone call.

Q Prior to that week had you been seing him regularly or irregularly?

A Somewhat regularly.

Q Is this the first fight you had with him?

A No.

Q How many other fights have you had with him over the three-year period?

MR. LaROSSA: Objection.

THE COURT: The objection is overruled.

A Prior to that time?

Q Yes, prior to September 17th.

A Maybe about seven or eight.

Q Had you ever gone to the police before?

A No.

Q How many fights have you had, if any, with Daniel Jordano since September of 1973?

MR. LaROSSA: Objection.

THE COURT: Overruled.

A Maybe two, three.

Q When did the last one occur?

A By fight do you mean just words? And argument?

Q And argument, yes.

A The last one, oh, about a month ago.

Q Did you ever have any fights that involved more than just words?

MR. LaROSSA: Objection.

THE COURT: Well, I think, Mr. Hemley, that if you are going to tie this up to what I thought you were going to do, I think you had better proceed to it or else drop it.

MR. HEMLEY: I'm at a loss. I don't know what you have in mind. I know what I have in mind.

What I have in mind relates to the threats and intimidation aspect.

THE COURT: All right.

MR. LaROSSA: My objection is overruled?

THE COURT: Yes.

Q Did you ever have any fights with Daniel Jordano since you have known him which involved more than just words?

A Yes.

Q And on how many different occasions have you had those kinds of fights?

MR. LaROSSA: Continuing objection to this.

THE COURT: Of course.

THE WITNESS: You want me to answer?

THE COURT: Yes. You may answer the question.

A How many times?

Q Yes.

A Maybe four or five times.

Q Will you describe these times to us, please, just generally what takes place on those occasions?

A Well, one time he was angry and knocked something over, a lamp, which broke. I had occasion to throw things at him back because I hae a very bad temper.

Another time he hit my car so I hit his back.

Q Did he ever strike you?

A No. He's held me. He is very strong and he has held my arms to keep me from striking him, which means there were a few bruises or scratches but I struck back harder.

Q I'm sorry, did you finish?

A I said I struck back harder.

Q You don't feel that he in any way threatened or intimidated you with respect to the statements you made on this witness stand today?

A No, absolutely not.

Q What time did you go to sleep on the 20th of September?

A I bet it was between three and three-thirty in the morning.

Q Any particular reason why you remember that hour?

A Yeah.

Q No?

A Yes. I do have a very good memory for remembering certain nights with Danny, what we do.

Q But you don't have that good a memory with respect to conversations you might have heard in which Danny participated?

MR. LaROSSA: Object to the form of the question.

Argumentative.

THE COURT: Thatobjection is sustained.

Q What is your memory good about?

MR. LaROSSA: Object to the form of the question.

THE COURT: You can ask to have the answer read. She has made it very plain.

MR. HEMLEY: I'm sorry, again.

THE COURT: You can have the answer read if you want to know what she said.

MR. HEMLEY: I would like to have it re-read, please.

(Answer read.)

Q That included the hour at which you go to sleep?

A Sometimes, yes.

Q And specifically on September 20th there is no question but that it was between three and three-thirty?

A I was only asked a week later by the FBI if he was with me the week before, the20th and the 21st, and I told them yes.

Q Did they intimidate you when they asked you that question?

A No.

Q Were there occasions when the FBI asked you

questions about Danny at which you didn't feel intimidated?

A I volunteered that about him being with me.

Q You volunteered certain things and other things you only told after you were threatened and intimidated?

MR. LaROSSA: I object to the form of the question.

THE COURT: That is not a question.

MR. HEMLEY: Withdraw it.

Q What time did you get up on the 21st of September?

A When the phone rang, approximately 10:30 in the morning.

Q What time was your appointment for on September 21st?

A Well, it was for 9 o'clock. Mr. Cook, he didn't generally get there until 9:30 because he came from Long Island.

Q Why do you remember that appointment was for nine o'clock that day?

A They all were.

Q All the appointments with Mr. Cook were for nine o'clock?

A Yes. He always said he would be there at nine but it was usually 9:30.

Q You don't have any doubt in your mind about that?

A No.

Q I would like you to refer to page 646 of a prior proceeding, specifically to the last question on page 646 appearing on line 25, and your response on page 647, line 2.

Do you remember giving the following answer to this question:

"Q What time was your appointment for?

"A Ten o'clock."

A I just said he always got there between 9:30 and 10:00 o'clock.

Q You just said all your appointments were for 9:00 o'clock.

A That's not what I said.

Q Is that what you just said?

A I said he said 9 o'clock but he never did come at 9.

THE COURT: I think he has a right to have her respond to his questions.

Q Didn't you just testify, moments ago in this courtroom, that all of your meetings with Mr. Cook were at 9 o'clock in the morning?

A Yes, they were set for nine.

Q And when I asked you what time was your appointment

for and you said ten o'clock, you did not understand that to mean what time it was set for?

A Not really. I think I explained that.

Q Now, on that morning you say Danny answered your telephone?

A Yes.

Q Did Danny often answer the telephone in your house?

A Yes.

Q Danny wasn't residing at that address, was he?

A At that time, no.

Q And after you received that telephone call, after Danny received the telephone call, where did you say you went?

A Well, first we got ready, got dressed, had some coffee and then drove to White Plains.

Q You were not in any hurry to get to your 9:30 or 10:00 o'clock appointment after your telephone call at 10:30?

MR. LaROSSA: Object to the form of the question.

THE COURT: Objection sustained.

Q Which car did you go in on that occasion?

A My car.

Q And that was the same---

A 1973.

Q 1973 Lincoln?

A Yes.

Q Are you sure it was a Lincoln?

A Yes.

MR. HEMLEY: Would your Honor bear with me one moment, please?

(Pause.)

Q If I were to suggest to you it was a blue Oldsmobile and not a Lincoln, would that refresh your recollection?

A I don't own any blue Oldsmobiles.

Q Do you know anyone who does?

A No.

Q Do you know anyone who owns an Oldsmobile?

MR. LaROSSA: Is the question being asked as of the present time?

A No, no.

MR. LaROSSA: Is the question being asked as of the present time?

MR. HEMLEY: Naturally, with respect to the suggestion that they were in Mohegan Lake on the 21st of September. That's precisely what I am asking.

A What was the question?

Q The question is, as of September 1973, did you know anyone who owned an Oldsmobile?

A No.

Q Or who drove an Oldsmobile?

MR. LaROSSA: That question is asked as if the witness answered yes.

THE COURT: She said no and then he asked or a person who drove one.

MR. LaROSSA: Who drove the blue Oldsmobile.

MR. HEMLEY: Or who drove an Oldsmobile rather than who owned an Oldsmobile.

A No.

Q Didn't Danny drive an Oldsmobile?

A Drive or own?

Q Drive or own, either.

A To my knowledge he never owned one. I think there may have been a time, once or twice I saw him driving one but I don't know whose it was.

Q In any event, he certainly didn't drive it to Mohegan Lake on the 20th and drive it back from Mohegan Lake on the 21st?

A No.

Q When you drove up to Mohegan Lake, who drove the

car?

A Danny.

Q When you drove back from Mohegan Lake, who drove the car?

A Danny.

Q Where did you go on your way back from Mohegan Lake?

A When, the 21st?

Q On the 21st.

A Went from Mohegan Lake to White Plains, just directly.

Q And you are saying that Danny dropped you off and did not go inside?

A Right.

Q Do you know where Danny went?

A No. He said he had a few things to do. He wanted to use the car and he'd see me later.

Q Did he see you later?

A Yes. He called me later at the office and then I met him later on.

Q When was that?

A Friday, Friday evening.

Q Do you know whether Danny took your car to his house?

A I imagine he did. That's whose car he had.

MR. LaROSSA: I object and move that answer be stricken.

MR. HEMLEY: Again, I'm sorry, your Honor, I did not hear the response.

THE COURT: The question was -- read the question.

(Question and answer read.)

THE COURT: The objection is overruled.

MR. LaROSSA: That portion of the answer from what I imagine on, I ask be stricken.

MR HEMLEY: I don't object to that.

THE COURT: I think we had better suspend.

I want to talk to counsel now.

Miss Willis, you will have to return tomorrow at ten o'clock. You are excused now.

(Witness excused.)

THE COURT: You ladies and gentlemen are excused. We will begin tomorrow at ten rather than 10:30 so don't get confused about the time.

As I tell you every time I dismiss you, don't talk about this case among yourselves or to anyone.

Good night.

(Jury excused.)

THE COURT: Can you talk about time? Does your

indication of being finished tomorrow, does that still hold? I'm beginning to doubt it.

MR. HEMLEY: It may still hold. No later than Thursday morning.

THE COURT: Beg pardon?

MR. HEMLEY: No later than Thursday morning in any event.

THE COURT: Mr. LaRossa, I raise this -- in your opening you indicated you were going to call Mr. Williams and what I want to raise with you is that I am going to be pressured for time. So there will be no problems about his presence, I would think that whatever has to be put in motion, it be put in motion.

MR. HEMLEY: I will arrange for that, your Honor. If I don't call Mr. Williams, I will certainly make him immediately available to Mr. LaRossa.

THE COURT: All right.

On the theory that the Government is going to be through tomorrow, I want the defense to be ready to go forward right away.

MR. LaROSSA: May we have Williams here tomorrow then, please?

MR. HEMLEY: Yes.

THE COURT: You know my problem. It begins to

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look as if this case may last beyond Friday.

MR. LaROSSA: May I make a record before your Honor leaves, please?

THE COURT: Yes.

MR. LaROSSA: I submit to the Court that we went beyond the bounds, there was nothing in my questioning of Miss Willis that opened the door to allow the Government to introduce criminal propensity and lack of character on the part of my client, Mr. Jordano, without his ever taking the stand.

The question of the witness' appearance, may it please the Court, in Yorktown Heights for the purpose of reporting these stolen checks or reporting the checks, was something that the Government was permitted to bring out.

The only thing that she was asked about this was whether or not she went to Yorktown Heights to complain about this because of the fact that she had an argument with Jordano some time during that week.

Your Honor has allowed each and every element of the checks including the fact that they were forgeries to be put before the jury, the fact that Jordano admitted the forgeries to a police officer, the fact that he admitted that he should repay and agreed to repay without his

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ever putting his character within the issue of this trial.

I submit to you that is erroneous, it can't be done.

I also submit to you this testimony, being taken for its limited purpose, in that we are attempting to test the credibility of Miss Willis, drags the defendant in due to the fact that he committed serious crimes here, forgeries, grand larceny under state law, and admitted the crimes without ever taking the stand.

Based upon these factors, I don't think anything your Honor does within the instructions is going to sufficiently cure that.

For that reason I respectfully move for the withdrawal of a juror as to the defendant Jordano at this time.

THE COURT: That motion is denied.

I think, Mr. LaRossa, that you have put in issue her motivation for going to the police in the first place, and her motivation for the various things that -- for lying to the grand jury, telling a different story there than here.

I may be in error but I think under those circumstances, the Government had the right to counteract with its own questions in terms of her credibility.

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The only purpose or the purpose of allowing that testimony obviously was not in terms of the truth of that. The question was that the Government had a right to test her motivation.

You had her saying she did this for various reasons and how she went along. The Government has a right to counter that. That's the reason for it.

So the motion is denied.

You have some requests?

MR. LaROSSA: I won't have them until tomorrow morning and I promised your Honor to have them tonight. I accept the liability of it. It was only going to be a few anyway.

THE COURT: I'm not going to make you liable for that but I would appreciate it if you would have somebody in your office either deliver them up to chambers whenever they are finished or deliver them the first thing tomorrow morning, that is, before ten o'clock.

MR. LaROSSA: Yes, your Honor.

(Adjourned to December 11, 1974, 10:00 a.m.)

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UNITED STATES OF AMERICA

vs.

CHARLES HODGES, et al.

New York, December 11, 1974,

10:00 a.m.

Trial resumed.

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(In open court; jury not present.)

MR. LA ROSSA: I gave some additional thought to additional requests. I went over your old charge and your boiler plate covered everything I was interested in. Thank you for the additional time.

THE COURT: I don't want you to feel that you are pressed. If you need more time I will grant it. If you are doing it on the basis that my old charge covers it, okay.

MR. LA ROSSA: Yes, your Honor.

MR. HEMLEY: I do have one matter which I would like to discuss, your Honor. It will just take a second.

THE COURT: I think the jury is about to come. We will have to cut off if they come in.

MR. HEMLEY: On cross examination I sought to

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inquire into one area which your Honor sustained Mr. LaRossa's objection to, and that is whether Nancy had given any gifts to Danny Jordano. I would ask your Honor to reconsider because I submit that it would show her bias and her motivation to lie in his favor, if she had given him a large gift or if he had given her a large gift within a recent period of time.

THE COURT: Mr. LaRossa.

MR. LA ROSSA: If it please the court, your Honor is aware that there was a prior trial. I don't think the witness has changed her testimony since the last trial, so certainly the motivation won't exist from the last trial until today. If there was any motivation it would have been back at that time.

If we are going to start getting into whether or not she received a Christmas present from him or whether he gave her a birthday gift --

MR. HEMLEY: I'm not looking for Christmas presents or birthday gifts. I am looking to inquire into whether or not -- I don't know the answer, but I want to inquire into whether substantial gifts have been made within a recent period of time.

THE COURT: When was the last trial?

MR. HEMLEY: The last trial was in Novem-

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ber.

I will make it quite obvious what I am inquiring about. The last trial Mr. Jordano was represented by appointed counsel. He now is represented by Mr. LaRossa. I don't seek to inquire into the size of Mr. LaRossa's fee but somebody is paying him. I think that it is possible that one possible source of Mr. LaRossa's fee is Nancy Willis. I think I should be able to inquire into it.

MR. LA ROSSA: Doesn't the motivation for a witness to lie run to whether or not the defendant gave her large sums of money? How does it work in reverse?

MR. HEMLEY: It works in reverse very simply. It establishes the extremely close nature of the relationship and her bias in favor of keeping a man out of jail to the extent that she may have been willing to give the man a large sum of money for whatever purpose.

MR. LA ROSSA: Your Honor is then going to allow the size of my fees to get involved in this if in fact the witness answers in that respect.

MR. HEMLEY: I wouldn't connect it to the fees at all.

MR. LA ROSSA: I think your Honor's ruling

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yesterday was correct and I think that any further testimony along these lines is only going to prejudice the defendant.

Frankly, I think we have gotten into some very extraneous matters with this witness already.

THE COURT: On that we disagree. I don't believe that it's been extraneous on the other matters.

MR. LA ROSSA: I said that most respectfully, your Honor. I didn't mean it to sound wrong but that's my feeling.

THE COURT: We understand one another. You don't have to be careful.

I'll give it some thought.

Get the jury in.

(Jury present.)

N A N C Y W I L L I S resumed.

THE COURT: I will allow the question as to limitations of time.

MR. LA ROSSA: Limited to what time, October 8th?

THE COURT: I think the limitation of time ought to be within the last, whatever that period is, three months.

MR. HEALEY: Of this year.

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THE COURT: Yes.

MR. LA ROSSA: You will note my objection, your Honor.

THE COURT: I was about to put it on the record.

Of course, there is to be no touching on the matter we talked about earlier.

MR. HEMLEY: I understand that, your Honor.

CROSS EXAMINATION CONTINUED

BY MR. HEMLEY:

Q Miss Willis, during the last three months have you given Daniel Jordano any gifts, any large gifts?

A No.

Q You have not?

A No.

Q How long have you known Patricia Murphy?

A Since approximately September of 1972.

Q During that entire period of time did Patricia Murphy work for you?

A No.

Q How did you originally meet Patricia Murphy?

A She lived at Lake Moheqan, in the same development.

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THE COURT: I didn't hear the last phrase.

THE WITNESS: In the same development where I live.

Q And did you originally see her socially?

A I saw her around the pool.

Q Did you socialize with her after you saw her around the pool?

A No.

Q Did you ever have her to your house?

A Only on maybe two occasions when she was selling jewelry.

Q And did she ever have you to her house?

A No. I only went there to pay her for the jewelry.

Q Now, how did it come that you hired her as an employee of your employment agency?

MR. LA ROSSA: Objection.

THE COURT: The objection is sustained as to the form of that question.

Q After how long a period of acquaintance with Patricia Murphy did you hire her?

A Approximately nine months.

Q In what capacity did she work for you?

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A Receptionist.

Q Did you pay her?

A Yes.

Q How much did you pay her?

MR. LA ROSSA: Objection.

THE COURT: The objection is overruled.

A $125 a week gross.

Q Was that a full-time job?

A Yes.

Q Was Miss Murphy working -- was she employed or unemployed at the time you hired her?

MR. LA ROSSA: Objection.

THE COURT: Objection overruled.

A Unemployed.

Q Do you know how long she had been unemployed before you hired her?

MR. LA ROSSA: Objection.

THE COURT: Overruled.

A No.

Q Had she been unemployed for as long as you knew her before you hired her?

A No.

Q Had she originally been working when you first met her?

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A Yes.

Q And that was selling jewelry?

A No.

Q What was she doing?

A She had many jobs, temporary jobs.

Q Office temporary secretarial type of work, is that it?

A Yes.

Q Does she still live in the same complex of buildings as you do?

A No.

Q Did she move or did you move?

A I moved.

Q When did you move?

A I moved from there October 1, 1973.

Q You still live in Mohegan Lake?

A Pardon me?

Q You still live in Mohegan Lake?

A I don't.

Q You don't any more.

Have you seen Patricia Murphy since you moved from Mohegan Lake?

A Yes.

Q How many times have you seen her since you

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moved?

A Every day for a month before I moved, because she was still working for me.

Q After your employment agency closed did you see her thereafter?

A No.

Q You have never seen her since then?

A No -- excuse me; maybe once.

Q Have you talked to her since then?

A Yes.

Q Did you talk to her about this trial?

A Yes.

Q Did you call Patricia Murphy and tell her that she was to be a witness in this trial?

MR. LA ROSSA: Objection.

THE COURT: The objection is overruled.

A No.

Q Did you call her and discuss this trial with her?

MR. LA ROSSA: May we have a point of time, please? If your Honor thinks about the proceeding it makes sense.

THE COURT: All right.

Q Any time after November of 1973 -- 1974 --

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excuse me -- beginning of November, 1974, did you ever discuss this trial with Patricia Murphy?

A Do I have to answer yes or no?

THE COURT: Answer yes or no. If you need to explain it, you may.

A I didn't discuss it. I merely asked the girl if she recalled that day, September 21st.

Q You simply called her up and asked her if she remembered September 21st but didn't mention that it was in connection with this trial.

A That's right. Only later I mentioned that.

Q Don't you think that was -- I withdraw it.

Did you and she discuss the events of September 21st during that telephone conversation?

A Yes.

Q Did you and she discuss that there had been a meeting scheduled with a Mr. Cook on that day?

A Yes.

Q Who first mentioned September 21st in that conversation, you or she?

MR. LA ROSSA: I object to this entire line of questioning, your Honor.

THE COURT: The objection is overruled.

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A I did. I asked her if she recalled that day.

Q What exactly did you say to her?

MR. LA ROSSA: May it please the court, I also object on the grounds it is beyond the direct testimony at this point.

MR. HEMLEY: I am now cross examining with respect to Mr. Jordano's alibi.

MR. LA ROSSA: I object to this. I object to the fact that no direct testimony was obtained from this witness in her direct examination on any conversations she had with Miss Murphy.

THE COURT: As I recall, Mr. La Rossa,on the direct examination -- I'm reasonably sure it was her testimony that Miss Murphy called and spoke to Mr. Jordano on that day and advised, through him, Miss Murphy advised her that she was late for an appointment.

MR. LA ROSSA: That's correct.

THE COURT: And I therefore think that Mr. Hemley may inquire into all the ramifications of that in regard to Miss Murphy, and so forth. So the objection is overruled.

MR. HEMLEY: May we have that last question read back?

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(Question read.)

A I said, "Pat, do you remember one day in September on Friday when Mr. Cook was here at the agency and I was late and you had to call me?"

She said, "Oh, yes, I remember that well."

Q Did you then suggest to her that day was September 21, 1973?

A I asked her if she knew ahat date it was?

Q She said right away September 21, 1973?

A No.

Q What did hse say?

A She said, "I believe it was the third Friday, because I remember the week later exactly what happened with Mr.Cook."

Q I'm sorry?

A She said, "I remember what happened a week later when we were put on straight commission with Mr. Cook."

MR. LA ROSSA: May I have the answer read back?

THE COURT: I think she said she remembered it was the third Friday, "because we were put on straight commission the next week by Mr. Cook." I believe that's what she said.

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Q During the time that Patricia Murphy worked for you did Daniel Jordano also work for you in some capacity?

A No.

Q He never did any work for you while Patricia Murphy was in the office under your employ, is that your testimony?

THE COURT: That's not what she said.

MR. LA ROSSA: I object to that because that wasn't the prior question.

THE COURT: That's not what you asked her.

MR. HENLEY: I'm sorry. What did I ask her?

Q Let me start from the beginning so I don't confuse you or myself.

During the course of Patricia Murphy's employ did Daniel Jordano do any work for you at your office?

A On a few occasions he did assist me.

Q And what was the nature of the assistance that he gave you on those few occasions?

A Oh, he'd help me make phone calls and do various paper work.

Q How regularly did Daniel Jordano come to your office during the period of time that Patricia Murphy

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was working there?

A No more than once a week.

Q Is that for the entire time that Patricia Murphy worked there?

A Yes.

Q How long did Patricia Murphy work for you?

A Oh, from approximately July, the middle of July, until November of 1973.

THE COURT: You have to keep your voice up, Miss Willis.

Q The last month was November?

A November.

Q So she saw him at least 20 times?

A Well, there could have been weeks --

MR. LA ROSSA: Is the question at the agency she saw him?

MR. HEMLEY: At the agency, yes.

A Well, there could have been weeks he didn't come in at all because he was working.

Q Could there have been weeks when he came in more than once?

A I don't think so. He was working in engineers too.

Q What would be your best estimate of the number

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of times when Patricia Murphy and Daniel Jordano were together in the office?

MR. LA ROSSA: I object to that, your Honor, because the question is quite different than the last questions that were asked, how many times he was at the agency and how many times were they together.

MR. HEMLEY: When they were both at the agency at the same time.

THE COURT: I thought the question was how many times was he at the agency when Miss Murphy was there.

MR. HEMLEY: That's the question.

THE COURT: But it was obscured because you asked while she was employed. She might not have been in at all that particular day.

BY MR. HEMLEY:

Q How many times would you estimate Patricia Murphy was at the agency while Daniel Jordano was also at the agency?

A Ten to 12 times.

Q Isn't it true that Daniel Jordano and Patricia Murphy went to lunch together on at least one occasion?

A By that do you mean just he and she?

Q Yes.

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A No.

Q Did you join them?

A Yes.

Q On how many different occasions did you all three go to lunch together?

A Just once.

Q Would it be fair to say that Patricia Murphy and Daniel Jordano had a cordial relationship?

A Yes.

MR. HEMLEY: I have nothing further, your Honor.

MR. LA ROSSA: Just a few questions, if I may.

REDIRECT EXAMINATION

BY MR. LA ROSSA:

Q When you were asked all those dates that Mr. Cook came to your agency and you rattled off 10 dates, did there come a time that you reviewed the records of your agency to obtain those dates?

A Yes.

Q And is that why you know them now?

A Yes.

Q Miss Willis, did there come a time in September, 1973 when you had discussions with law enforcement

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officers about Thursday, September 20th, and Friday, September 21, 1973?

A Yes.

Q When, can you tell us, did you have these conversations with any law enforcement officers about those two dates?

A It was approximately a week after the 21st of September.

Q Some time around the end of September?

A Yes.

Q So when you discussed this weekend or this Thursday and Friday night in September with the law enforcement agents did you tell them that Daniel Jordano was at your house that evening?

A Yes.

Q And did you tell him that he stayed overnight that evening?

A Yes.

Q And did you tell him that you went into your agency the next morning?

A Yes.

Q Now, does that help you with respect to the dates of September 20th and September 21st, Miss Willis, the fact that you were asked about them a few days after

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it happened?

A Yes.

MR. LA ROSSA: I have nothing further.

MR. HEMLEY: Just one question, your Honor.

MR. SCANLAN: I have no questions.

MR. GOLUB: I have no questions, your Honor.

MR. HEMLEY: Just one question.

RECROSS EXAMINATION

BY MR. HEMLEY:

Q Which law enforcement officer did you inform about Danny Jordano being at your house?

A Federal Agent George Wisnovsky, a Yonkers policeman, his last name is Roach, and Detective Fielding from Yorktown.

Q Is that all at the same time?

A Yes. They asked to meet me in a bar.

Q Were all three of those gentlemen together?

A Yes, they were.

Q What date did that interview take place?

MR. LA ROSSA: I'm sorry. I didn't hear that.

Q What date did the interview take place?

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A I'm not absolutely sure. I would have to check on it. I believe it to be approximately a week after, no more than a week after the 21st of September.

Q Do you know the name of the bar that the interview took place in?

THE WITNESS: I didn't hear that.

Q Do you know the name of the bar in which the interview took place?

A I think itis the Old Vienna Restaurant and Bar.

Q I heard "Old."

A Old Vienna Bar and Restaurant.

MR. HEMLEY: Nothing further, your Honor.

MR. LA ROSSA: Would you just give me one moment, please?

THE COURT: Surely.

(Pause.)

REDIRECT EXAMINATION

BY MR. LA ROSSA:

Q Was that the only time you were in the company of Mr. Fielding, Detective Fielding?

A No.

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Q How many times were you in the company of Detective Fielding?

When I say "in company with," I'm referring to times that he interviewed you.

A Just times he interviewed me?

Q Were there other times, other than an interview, Miss Willis?

A Yes.

Q Would you explain that, please?

A He came to my house.

Q When?

A Oh, a week or so after I reported the master checks, after I was at his station in Yorktown.

Q Did he interview you at that time?

A Not really.

Q Will you tell us what that visit was all about?

A I suppose of a personal nature.

Q Did you ask him to come that evening?

A No.

Q Did he ever call you at other times for personal reasons?

A Yes.

Q How many times?

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A Perhaps two, but then I moved from there shortly after.

Q During that period did you tell Detective Fielding that you were going out with Daniel Jordano?

A Yes. Well, he kept asking if I was seeing him.

Q Did he ask you out?

A Yes.

MR. LA ROSSA: I have nothing further.

MR HEMLEY: Nothing further.

THE COURT: Thank you, Miss Willis.

THE WITNESS: May I make a statement?

MR.HEMLEY: I object to that.

THE COURT: No. You may step down. Thank you very much.

(Witness excused.)

THE COURT: Your next witness.

MR. HEMLEY: The government calls Special Agent Hahn

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L O U I S R. H A H N, called as a witness on behalf of the government, being first duly sworn, testified as follows.

DIRECT EXAMINATION

BY MR. HEMLEY:

Q Agent Hahn, how are you presently employed?

A Special agent with the Federal Bureau of Investigation.

Q And how long have you been so employed?

A Twenty-three years.

Q Directing your attention to October 9, 1973, were you then employed as a special agent?

A I was.

Q And to what office were you then assigned?

A White Plains. White Plans, New York.

Q Did there come a time on that day when you had occasion to interview a Nancy Willis?

A I did.

Q Can you tell us, please, first how it came about that you interviewed Nancy Willis?

MR. LA ROSSA: Objection.

THE COURT: Objection sustained. What difference does it make?

MR. HEMLEY: I think it does make a differ-

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ence. I will ask it in another way, your Honor.

Q When Nancy Willis came to your office was she escorted or unescorted?

A Unescorted.

Q What happened after from when she came in the door until you began talking to her?

A She came in and talked with myself and another agent. It was strictly a voluntary situation. She walked into our office.

MR. LA ROSSA: I object and move that be stricken.

THE COURT: Overruled.

Q Who is the other agent, do you recall?

A Andrew Duffen.

Q Do you know how long he's been an agent?

MR. LA ROSSA: Objection.

THE COURT: Overruled.

A I'd say approximately 10 years. I'm not certain of that.

Q Directing your attention to that interview, can you tell us, please, what it is that Nancy Willis told you?

MR. LA ROSSA: Objection.

MR. HEMLEY: It is offered for a limited

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purpose.

MR. LA ROSSA: No matter what it is being offered for, I object to the form of the question.

THE COURT: Read the question back.

(Question read.)

THE COURT: The objection is overruled.

MR. LA ROSSA: May it please the court, I think it is only being offered for a limited purpose. Am I correct?

MR. HEMLEY: Correct.

MR. LA ROSSA: It far surpasses the limited purpose that the government seeks to offer it for. There were specific questions put to Miss Willis. If it is being offered for the specific purpose of attacking Miss Willis' credibility, then it must be restricted to the specific questions that were asked Miss Willis about that interview and not the general conversation that was had between this witness --

THE COURT: The point is I have no idea, in terms of the questions, what his testimony is. I understood that Miss Willis came in and started to talk about it.

MR. LA ROSSA: May I show you Exhibit 3536?

MR. HEMLEY: I think it's a fair objection

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and I will limit my question to that.

MR. LA ROSSA: In addition to that, I object to the testimony in all events.

THE COURT: I understand that.

Q What, if anything, did Nancy Willis tell you about the robbery of a bank messenger of the Yonkers Savings Bank on September 21, 1973?

MR. LA ROSSA: Objection. Too broad.

Q And the participants.

MR. LA ROSSA: I object to that.

THE COURT: I think that if there are specific questions that relate to that, then of course make it specific.

But I want to tell the jury, I advised you yesterday that these various statements that allegedly Miss Willis is alleged to have made outside of the court in regard to this matter are not to be taken by you that what is alleged is a fact. It is only taken by you to evaluate her as a witness.

MR. LA ROSSA: May I just add, and may not be used as affirmative evidence to determine the guilt or innocence of the defendant.

THE COURT: All right.

MR. LA ROSSA: Thank you, sir.

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MR. HEMLEY: I join in that.

BY MR. HEMLEY:

Q Will you tell us, please, if you can -- do you have the question in mind that I just put to you?

A Beg pardon?

Q Do you have in mind the question I asked before the discussion?

A No. Would you repeat it?

Q Can you tell us, what, if anything, Nancy Willis told you about the robbery of the Yonkers Savings Bank on September 21, 1973?

MR. LA ROSSA: I must object to that on its broadness, your Honor. See, I can anticipate the answer by looking at 3536. It deals well beyond the scope of the questions put to Miss Willis.

MR. HEMLEY: I disagree.

MR. LA ROSSA: May I point them out to you?

THE COURT: All right.

MR. LA ROSSA: I will indicate it to Mr. Hemley, your Honor.

(Pause.)

MR. HEMLEY: I will rephrase the question,

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your Honor.

THE COURT: All right.

BY MR. HEMLEY:

Q Can you tell us, please, Agent Hahn, what, if anything, Nancy Willis told you solely with respect to whether or not Daniel Jordano participated in the robbery of the Yonkers Savings Bank on September 21, 1973? And restrict your answer only to that information, if any.

A Well, she said that Danny Jordano was her boyfriend until recently when they had a falling out, and that through conversation she had ascertained that Danny Jordano was responsible for setting up the robbery of the Yonkers Savings Bank.

Q Did she tell you who that conversation was with?

A Well, some of it was with her and some she overheard, she was present at the time. It was a combination.

MR. HEMLEY: Thank you. I have no further questions.

THE COURT: Anything, Mr. La Rossa?

MR. LA ROSSA: Just give me a moment to think. Sometimes I need a moment to think.

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(Pause.)

MR. HEMLEY: I have one further question while Mr. LaRossa is thinking.

MR. LA ROSSA: Thank you.

BY MR. HEMLEY:

Q Did you in any way threaten or intimidate or coerce Miss Willis to make that statement to you?

A No, I did not.

MR. LA ROSSA: I object to the form of the question.

THE WITNESS: Not at all.

THE COURT: That objection is sustained. Those three terms may mean a lot of different things to different people, intimidate, coerce or threaten.

MR. HEMLEY: I will rephrase it.

Q In what manner did the interview take place?

MR. LA ROSSA: I object to this as asked and answered.

THE COURT: Well, in terms -- the objection is overruled.

You may answer.

A Well, myself and another agent, Agent Duffen, we talked to her in our office at White Plains, just like we have any other interviews.

Q Can you just describe the immediate area where you discussed this matter with Nancy Willis?

A It was actually in Mr. Duffen's office. He was the senior resident agent at the time. It is just a glass partition from the rest of the office. He was set off by a glass partitition.

Q Were you seated?

A Yes.

Q And was Nancy Willis seated?

A Yes.

Q Was there a desk in between?

A There was a desk.

MR. HEMLEY: I have nothing further.

CROSS EXAMINATION

BY MR. LA ROSSA:

Q Some 23 years you have been a special agent of the FBI?

A Yes.

Q Every agent of the FBI is a special agent, is that correct?

A That's correct.

Q During these 23 years and before your appointment as an agent you went to Quantico for training, did you not?

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A Yes.

Q When you went to the school did they teach you how to interview a prospective witness in a case?

A I guess we were given some training along that line

Q Did they tell you that the particular words that a witnesses uses were important in your recording that conversation as best you could in notes?

A Beg your pardon? Would you repeat that?

Q Let me try and rephrase it. I think it was confusing.

Did they tell you that the notes you take of an interview should be as exact as you could make them?

A That's correct. Just what she said I would take down.

Q You have tried to do that throughout most of your life as an agent, haven't you?

A Certainly have.

Q Did you take notes that particular day.

A I took some notes.

Q Did you take it on a piece of yellow paper such as this?

A No. I think quite possibly it would have

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been white paper, actually.

Q But a piece of scratch paper of some sort?

A Yes.

Q I assume that the notes comprised a number of pages such as that?

A Could have been one or two.

Q Were they in your handwriting?

A Yes.

Q May we see those notes, Agent Hahn?

A I don't have them.

Q Did you destroy those notes?

A Once I transcribed it I did, yes.

Q When you destroyed those notes, Mr. Hann, did you know at that time that if they were not destroyed they would be turned over to defense counsel at the time of the trial?

MR. HEMLEY: Objection, your Honor.

THE COURT: Objection is overruled.

A No, I was not aware of that.

Q You weren't aware that your notes on a witness would be turned over to defense counsel of you ever testified at the time of trial?

A I have but I have never had any notes that I have had to turn over. Once we transcribe them, we

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destroy them. We are not required to maintain them.

MR. LA ROSSA: Thank you, Mr. Hahn. I have nothing further.

THE COURT: Is there anything?

MR. GOLUB: I have one question.

CROSS EXAMINATION

BY MR. GOLUB:

Q Isn't it a fact that Nancy Willis never mentioned Andy Jordan as having been involved in this bank robbery?

A That's true.

MR. GOLUB: I have nothing else.

THE COURT: Anything from you?

MR. SCANLAN: No, your Honor.

MR. HEMLEY: I have a question.

REDIRECT EXAMINATION

BY MR. HEMLEY:

Q Agent Hahn, when you destroyed the notes were you following Federal Bureau of Investigation procedure?

A Yes. We don't have to maintain them once they are transcribed.

Q You transcribed as accurately as you could what was on those notes into a typewritten, presentable

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form, is that correct?

A That's correct.

MR. HEMLEY: Nothing further.

THE COURT: Thank you very much.

(Witness excused.)

THE COURT: Your next witness, Mr. Hemley.

MR. HEMLEY: The government calls Special Agent George Wisnovsky.

G E O R G E W I S N O V S K Y, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HEMLEY:

Q Mr. Wisnovsky, how are you employed?

A I'm a special agent with the Federal Bureau of Investigation.

Q How long have you been so employed?

A Approximately six years.

Q To which office are you presently assigned?

A White Plains Resident Agency.

Q During the course of your employment as an FBI agent have you come to know Nancy Willis?

A Yes, I have.

Q Have you had interviews with her?

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E D G A R F I E L D I N G, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HENLEY:

Q Detective Fielding, will you tell us, please, how you are employed?

A Detective in the Town of Yorktown Police Department.

Q How long have you been so employed?

A Twelve years.

Q Were you so employed in the year of 1973?

A Yes, sir, I was.

Q During the course of your employment have you had occasion to meet Nancy Willis?

A Yes, sir, I did.

Q When was the first time that you met Nancy Willis?

A I believe it was the 18th of September, 1973.

Q Where were you at that time?

A I was in the police station? She came in to make a complaint.

Q During the course of that interview -- let me ask you where in the police station did that interview

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take place?

A In the squad room.

Q Were you seated during that interview?

A Yes.

Q Was Nancy Willis seated?

A Yes.

Q Was there a desk in between you?

A Yes.

Q During the course of that interview did Nancy Willis indicate anything to you about the possibility of bank robbery taking place that Friday and her boyfriend, Daniel Jordano, being involved?

A Yes, sir, she did.

MR. LA ROSSA: Objection.

THE COURT: Objection overruled.

A Yes, sir, she did.

MR. HEMLEY: Nothing further.

CROSS EXAMINATION

BY MR. LA ROSSA:

Q You say that this was on the 18th, Detective Fielding?

A I believe it was the 18th.

Q Do you know what day of the week that was?

A I believe it was a Tuesday.

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Q Did there come a time after that that you called Danny Jordano?

MR. HEMLEY: Objection, your Honor. It's beyond the scope.

THE COURT: I understand the grounds of the objection and the objection is sustained on that ground.

If you are going to go further, Mr. La Rossa, I suggest, so that I can follow you, you finish your cross examination before you take the witness as your own.

MR. LA ROSSA: I didn't think that was a leading question anyway.

THE COURT: It was outside of the scope of the direct. That is the basis of the objection.

MR. LA ROSSA: May I make the witness my own witness?

THE COURT: I would prefer that you cross examine first so I can follow it.

MR. LA ROSSA: I believe this is going to be the extent of my examination.

THE COURT: All right.

MR. HEMLEY: In other words, Mr. LaRossa does not have any cross examination, is that correct?

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So I know how to object. I don't want to be making the wrong objections.

THE COURT: Proceed.

BY MR. LA ROSSA:

Q Did there come a time when you called Daniel Jordano?

A Yes.

Q When?

A That same evening, sir.

Q Did there come a time when you met Daniel Jordano?

A Yes.

Q When?

A I believe it was the same night.

Q The very same evening?

A Yes.

Q Where did you call him?

A I called him at his home.

Q Did there come a time that you ever met Daniel Jordano again?

A The first time it was either that night or the next night.

Q This is the second time you met him?

A No, I only met him once.

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Q Do you know whether it was a Tuesday night or a Wednesday?

A I don't remember.

Q Isn't there any way you can check your records?

A I don't have my original complaint here with me.

Q Let me show you what's marked Exhibit 3538. Does that help you, sir, tell us when you met Daniel Jordano?

A I believe it was the following night, the 19th. No, it had to be the same night, the 18th. The 18th.

Q Can you tell us, or will you point out to me what on that form makes you think it wasn't the following night and was the 18th?

MR. HEALEY: I object to that.

Q Is there anything on that form that makes you believe it's Tuesday, the 18th?

MR. HEALEY: I object to that.

THE COURT: The objection is sustained.

Q Is there anything on that report that indicates the date you saw Mr. Jordano?

A No, sir.

Q Are you now testifying then from your recollection without any records?

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A Yes, sir.

Q Are there any records in addition to that that would indicate what day you saw Daniel Jordano?

A No, sir.

Q What time did you see Miss Willis?

A About 4:30 p.m.

Q What time did you call Mr. Jordano?

A Approximately 5, 5 p.m.

Q What time did you see him?

A About 10 p.m.

Q Are you absolutely certain it was that night and not the following night?

A To the best of my recollection, sir, it was that night.

Q And you never saw Mr. Jordano again?

A No, sir.

MR. LA ROSSA: I have nothing further.

MR. HEMLEY: I have nothing further.

MR. GOLUB: Your Honor, I have a question.

THE COURT: I'm sorry.

CROSS EXAMINATION

BY MR. GOLUB:

Q Was Andy Jordan ever mentioned to you in connection with any bank robbery?

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A No, sir.

MR. GOLUB: No further questions.

THE COURT: Thank you.

(Witness excused.)

THE COURT: All right, your next witness.

MR. HEILEY: The government calls Donald Hodges.

(Pause.)

MR. LA ROSSA: I'm sorry. May we see if Detective Field has left? There is something I want to ask him.

THE COURT: We will do it after we swear in the witness.

D O N A L D H O D G E S, called as a witness by the government, being first duly sworn, testified as follows:

(Pause.)

DIRECT EXAMINATION

BY MR. HEILEY:

Q Do you have a brother by the name of Charles Hodges?

A Yes, I do.

Q Do you know a man by the name of Kenny or Kenneth?

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EDGAR FIELDING resumed.

CROSS EXAMINATION CONTINUED

BY MR. LA ROSSA:

Q You told us the interview of Miss Willis was about 4:30 in the afternoon?

A When she came in?

Q Yes.

A Yes, sir.

Q Did you get Daniel Jordano's number from her?

A Yes, sir.

Q Did you call him and make an appointment for him for that evening right in front of Miss Willis?

A I didn't talk to him. I talked to a female on the end of the phone. I don't know who it was but I did call his house, yes, sir.

Q When did you talk to him for the first time?

A He arrived --

MR. HENLEY: I object as having been asked and answered.

Q I am not talking when he came to your place. Did you ever talk to him between the time you made that phone call and the time you saw him that evening?

A No.

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Q Did he ever call you?

A No.

MR. LA ROSSA: I have nothing further. Thnak you.

MR. HEMLEY: Nothing further.

THE COURT: Thank you.

(Witness excused.)

MR. HEMLEY: At this time, your Honor, subject to our calling on additional witness whom we expect will arrive at 2 o'clock, the government is prepared to rest.

THE COURT: All right.

Ladies and gentlemen, the government has, with the exception of the one witness, rested. I think the more efficient thing to do is for me to put your lunch hour up one hour and I will excuse you now for lunch until 1 o'clock. We will resume at 1.

Thank you.

(The jury left the courtroom.)

THE COURT: Since I gather that the only witness for the government that remains is someone, I gather, who will testify about the car rental -- is that correct?

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MP

UNITED STATES OF AMERICA

versus 74 Cr 741
74 Cr 764

CHARLES HODGES et al.,

New York, N. Y.

December 13, 1974

CHARGE OF THE COURT

THE COURT: (Carter, D. J.) The charge, ladies and gentlemen, let me say preliminarily, is long, so I am going to ask Miss Wilkemeyer, if I drop my voice, you raise your hand. You have to hear the charge in order to understand it.

Ladies and gentlemen, we now come to that part of the case where the evidence is in, the lawyers have presented their arguments, and you are about to exercise your final role, which is to pass upon and decide the fact issues that are in the case.

You are the sole and exclusive judges of the facts. You pass upon the weight of the evidence; you determine the credibility of the witnesses, and you resolve such conflicts as there may be in the evidence, and you draw such reasonable inferences as may be warranged by the testimony and the exhibits in the case.

My function at this point is to instruct you as to the law that is applicable to the case. It is your duty to

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accept the law as I state it to you in these instructions and to apply it to the facts as you find them. The logical result of that application is your verdict in the case.

In respect to any fact matter, it is your recollection and yours alone that governs. Anything that counsel, either for the Government or the defense, may have said with respect to matters in evidence during the trial in question, in colloquy with the Court, in argument or in summation is not to be substituted for your own recollection of the evidence. So, too, anything that the Court may have said during the trial or may refer to in the course of these instructions as to any factual matter in evidence is not to be taken in lieu ofyour own recollection. The case must be decided by you upon the sworn testimony of the witnesses and such exhibits as were received in evidence and any stipulations entered into by counsel.

Now, at times throughout this trial, I have been called upon to make rulings upon various matters of law. When a question put to a witness was objected to or after a question was answered a motion was made to strike the answer, or the offer of a document was objected to, I have sustained some objections and overruled others. I have received some documents that were offered in evidence and rejected others. It is essential in the performance of your duty, when anything

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was ordered stricken from the record or rejected, that you put it out of your minds and disregard it. Similarly, if an objection to a question was made and the objection was sustained and no answer was given, the question should play no part in your consideration of the case.

Please do not concern yourselves at all with my reasons for any of these rulings. They concern purely matters of law.

Conferences at the bench were conducted at the request of the attorneys. As I advised you, I believe, those conferences were solely on questions of law and are of no concern to you. You are not to draw any inferences against either side because of such requests or because such requests were made and at times were denied.

Now, in deciding this case, you will be called upon to consider both direct evidence and circumstantial evidence. It is well to explain now the difference between these types of evidence. Direct evidence is where a witness or participant testified as to what he saw, heard or observed, what he knows of his own knowledge, something which comes to him by virtue of his senses.

A document can also contain direct evidence.

Circumstantial evidence is evidence of facts and circumstances from which one may infer connected facts which

reasonably flow in the common experience of mankind.

Stated somewhat differently, circumstantial evidence is evidence of facts from which other facts that are material in a lawsuit may be found by a process of inference.

Let me give you an example that I believe has nothing to do with the facts in this case.

Suppose in a lawsuit you had a material issue as to whether John Doe was drinking alcohol, alcoholis beverages, on a particular night. A witness might take the stand and testify that he had given whiskey to John Doe and had seen him drinking it. That would be called direct evidence. If you believed that witness and thought he was able to recall accurately, you could find from that direct evidence that John Doe had been drinking on the night in question.

You might have a witness testify he had seen John Doe enter a tavern and then had seen him leave the tavern a few hours later, walking and talking in ways that, frankly, suggested he was drunk. Now, if you believed that witness and thought he was accurately reporting it, you could find on the basis of that testimony that John Doe had been drinking on the night in question, and that would be circumstantial evidence of the material fact in that hypothetical case.

Let me tell you, just for your purposes, there is no rule of law and no general rule of good sense that places

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either of these two types of evidence, direct or circumstantial, in a general way on a higher, lower or different footing from the other.

With respect to any evidence admitted into a trial record, whether it is direct or circumstantial, it is entitled to such weight and you are permitted to draw such reasonable inferences as your good judgment indicates in a particular case.

The weight and effect of any item or category of evidence depend not on whether it has been categorized as direct or circumstantial but on the concrete significance of that particular piece of evidence in this trial setting and upon its intrinsic credibility and persuasive power, in the light of your observation of the witnesses, your own general experience of things and your reasonable analysis of the whole record.

Now, there are times when different inferences may be drawn from facts, whether they are proved by direct or circumstantial evidence. The Government asks you to draw one set of inferences, while the defendants ask you to draw another. It is for you to decide and you alone what inferences you will draw.

It is your function to determine the truth or falsity of the testimony of each witness. Now, how do you

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determine the truth and how do you appraise the credibility of the witnesses? I think we went over this before, and I told you then, and I repeat: you use your own plain, everyday common sense. The degree of credit to be given to a witness should be determined by his or her demeanor here on the witness stand, his or her relationship to the controversy and to the parties, his or her bias or impartiality, the reasonableness of his or her statements, the strength or weakness of his or her recollection, viewed in the light of all the other testimony and the attendant circumstances in the case.

You observed the witnesses. You heard their testimony. How did they strike you? Did their answers seem frank, open, truthful, candid, or were they equivocal, deliberately confusing or evasive, or were they somewhere in between? How did each witness impress you?

And so you take each one and, on the basis of your common sense and your everyday experience, you determine whether or not you believe the witness and to what extent you believe him.

In passing upon the credibility of a witness, you may also take into account whether there were material inconsistencies or contradictions within his or her own testimony, whether a witness changed his or her testimony, the extent to which he or she has been corroborated or contradicted by

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other credible evidence, his criminal record if any, whether the witness is a disinterested one or one who is fostering some interest of his own in giving testimony.

An interested witness is not necessarily unworthy of belief. It is a factor, however, which you may consider in determining the weight and credibility to be given to that witness' testimony.

If you find that any witness has wilfully testified falsely as to any material fact, you may disregard all of his testimony or accept such part of it as you believe worthy of belief as it appeals to your reason and your judgment.

A witness may be discredited by contradictory evidence or by evidence that at other times a witness had made statements which are inconsistent with his or her testimony here. If you believe any witness has been discredited in this manner, you may give the testimony of that witness whatever credibility, if any, that you think it deserves.

The fact that the Government is a party here and the accusation is brought in the name of the United States of America entitles it to no greater consideration than that accorded to any other party in litigation. By the same token, it is entitled to no less consideration. All parties and individuals alike are equal in this court.

During the course of this trial, you have heard

evidence that certain witnesses made statements to law enforcement officials which were inconsistent with their sworn testimony here before you. I now wish to instruct you once again as to how you may consider those earlier statements. If when confronted with the earlier statements the witness affirmed the truth of the earlier statement, you may consider the statement for the truth of what it says, just as you may consider the trial testimony. As to any witness who denied the truth of the earlier statement, you may consider the statement only as it affects the witness credibility, with one exception:

If the earlier inconsistent statement was made under oath before a grand jury, you may consider the truth or falsity of its content even though the witness has not affirmed its truth.

Now, as I advised you at the start of this trial, the indictment is merely an accusation and charge. It is not evidence or proof of a defendant's guilt, and no inference of any kind may be drawn from the indictment. The Government has the burden of proving the charges against each of the defendants beyond a reasonable doubt. It is a burden that never shifts and remains upon the Government throughout the entire trial.

A defendant does not have to prove his innocence.

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On the contrary, he is presumed innocent of the accusations contained in the indictment, and that presumption of innocense was in his favor at the start of this trial, continued in his favor throughout the trial, is in his favor even as I instruct you now. It remains in his favor during the course of your deliberations in the jury room. It is removed only if and when you are satisfied that the Government has sustained its burden of proving the guilt of the defendant beyond a reasonable doubt.

Now, what is a reasonable doubt? It is a doubt based on reason, which arises from the evidence or lack of evidence in the case. It is a doubt that a reasonable man or woman might entertain. It is not a fanciful or speculative doubt. It is not an imagined doubt. It is not a doubt that a juror might conjure up to avoid performing an unpleasant task or duty. It is not proof to an absolute certainty. Let me repeat: it is a reasonable doubt. It is a doubt that appeals to your reason, to your judgment, your common understanding and your common sense, a doubt that would cause you to hesitate to act in matters of importance in your daily lives.

On the other hand, the Government does not have to prove the guilt of the defendants beyond all possible doubt or to a positive certainty. If that were the rule, few people, however guilty they might be, would be convicted.

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If when you consider the evidence in this case you have a reasonable doubt that the Government has proved any element of the crime charged, then you must return a verdict of acquittal. You may not return a guilty verdict simply because you feel that it is more likely than not that the defendant committed the crime charged. A guilty verdict is appropriate only if each and every one of you is satisfied that the defendants' guilt has been established and proved beyond a reasonable doubt.

Now, in this case, the indictment charges a number of different crimes against various combinations of the three defendants. It is your obligation to consider separately each of the individual charges or counts of theindictment and to decide whether as to each count the Government has or has not sustained its burden of proving beyond a reasonable doubt the guilt of each defendant named in that particular count of the indictment.

The indictment in this case contains three counts or accusations and names four defendants. You, however, need consider only the defendants Daniel Jordano, Andrew Jordan and Anthony Muffucci. The guilt of Charles Hodges is not to be considered by you in your determination of the issues in this case.

Briefly stated, Count 1 charges that the defendant

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Muffucci and the defendant Jordano and the defendant Jordan conspired and agreed with Charles Hodges and others to rob, steal and embezzle money from the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York.

Counts 2 and 3 are called substantive counts. They charge the defendants not with conspiracy but with the actual robbery, bank robbery and bank larceny. I shall explain the charges contained in these counts and the conspiracy count in some detail a little later. At this point, let me continue to briefly summarize the charges.

Count 2 charges that Jordano, Jordan and Muffucci, by force, violence and intimidation, robbed the bank of approximately $36,500.

Count 3 charges that the defendants, with the intent to steal and purloin, took and carried away approximately $36,500 dollars from the custody, control, management and possession of the bank.

As I have said, I shall explain each of these charges to you later.

Now I shall describe the conspiracy charge, Count 1, in some detail.

The first count of the indictment charges that the defendants violated Section 371 of Title 18, United States Code. That section provides as follows:

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"If two or more persons conspire either to commit any offense against the United States or to defraud the United States or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each is guilty of a crime."

Count 1 of the indictment reads as follows:

Paragraph 1:

"From on or about the first day of July 1973 up to and including the date of the filing of this indictment, in the Southern District of New York, Charles Hodges, Daniel-Jordano, Andrew Jordan, also known as Andrew Jordano, and Anthony Muffucci, the defendants, together with each other and with others, to the grand jury known or unknown, did unlawfully combine, conspire, confederate and agree to commit a crime against the United States of America, to wit, to violate Sections 113 and 2113(b) of Title 18, United States Code."

Paragraph 2:

"It was part of said conspiracy that the defendants unlawfully, wilfully and knowingly, by force, violence and intimidation, would take and cause to be taken from the person and presence of another, sums of money belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York,

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hereafter referred to as 'the bank', a bank whose deposits were then and there insured by the Federal Deposit Insurance Corporation."

Paragraph 3:

"It was further part of said conspiracy that the defendants, unlawfully, wilfully and knowingly, with intent to steal and purloin, would take and carry away and cause to be taken and carried away sums of money belonging to and in the care, custody, control, management and possession of the bank.

"Among the means whereby the defendants would and did carry out said conspiracy were the following:

"(a) Ronald Corbia would, according to pre-arranged plan with the defendants, carry a sum of money from the National Bank of North America along Yonkers Avenue in Yonkers, New York, towards his place of employment, the Yonkers Savings Bank.

"(b) At a designated location upon the route, Charles Hodges, the defendant, and another person known to the grand jury would intercept Corbia, forcibly subdue any accompanying bank guards and seize the money. Corbia would pretend to be a victim of the robbery.

"(c) The defendant Charles Hodges would thereafter deliver said proceeds to the defendant Daniel Jordano, who

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would in turn divide the proceeds among the other defendants."

In order to find the defendants guilty of the conspiracy as charged in the first count of the indictment, you must find the following beyond a reasonable doubt:

First, that some time between July 31, 1973 and the date of the filing of the indictment, which was July 26, 1974, an agreement existed between Charles Hodges, Daniel Jordano, Andrew Jordan and Anthony Muffucci, or between any two of them, to rob or steal money from the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York. In this regard, you need not find that the conspiracy existed for the entire time mentioned in the indictment or that the agreement was to accomplish all the objectives listed in the indictment. It is sufficient if it is shown that the agreement existed for any part of the time alleged and that its purpose was to rob or steal the money from the Yonkers Savings Bank.

Also, as I shall explain in further detail later, you need not find that all the persons mentioned reached an agreement. An agreement between any two of the defendants or between any one defendant and another person is sufficient.

Second, that the defendant whose guilt or innocence you are considering knowingly and wilfully became a participant in the conspiracy with knowledge of its alleged criminal purposes.

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Third, that at least one of the alleged conspirators, not necessarily the defendant you are considering, knowingly committed at least one of the overt acts set forth in the indictment at or about the time and place alleged.

If the Government fails to establish each of these three elements beyond a reasonable doubt, you must acquit the defendants as to Count 1. If the Government succeeds in satisfying this burden, you must convict.

As I have informed you, the first of the elements which you must find that the Government has proved beyond a reasonable doubt is that the conspiracy charged in the indictment existed.

First, I want to discuss with you what the term "conspiracy" means, because that term is here used in its legal context and therefore has a somewhat different meaning than it has when it is used colloquially.

What is a conspiracy? A conspiracy is a combination or agreement of two or more persons to accomplish a criminal or unlawful purpose. The gist of the crime of conspiracy is the unlawful combination or agreement to violate the law. Whether or not the defendants finally accomplished what it is alleged they conspired to do is immaterial. That is to say, the Government is not obliged to prove that a purpose of the conspirators was attained.

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It is often said that a conspiracy is a partnership in crime, in which each member becomes the agent of every other member. To establish a conspiracy, however, the Government is not required to show that the alleged conspirators sat around a table and entered into a solemn compact, orally or in writing, stating they had formed a conspiracy to violate the law and setting forth the details of their plan. It is sufficient if two or more persons, in any manner, through any contrivance, impliedly or tacitly, come to a common understanding to violate the law. Express language or sufficient words are not required to indicate assent or attachment to a conspiracy.

On the other hand, mere similarity of conduct among various persons and the fact that they may have associated with each other and may have assembled together and discussed common aims and interest does not necessarily establish proof of the existence of a conspiracy. If upon consideration of all the evidence you find beyond a reasonable doubt that the minds of at least two of the alleged conspirators met in an understanding way and that they agreed, as I have explained a conspiratorial agreement to you, to work together in furtherance of the unlawful scheme alleged in the indictment, then proof of the existence of the conspiracy is

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satisfied.

If you find that a conspiracy existed beyond a reasonable doubt, then you must consider the second element of the conspiracy count, that is, whether the Government has established beyond a reasonable doubt that the defendant whose guilt or innocence you are considering knowingly and wilfully became a participant in the conspiracy with knowledge of its alleged criminal purpose.

You may not assume that a defendant joined a conspiracy simply because you are convinced that he knew or was associated or had dealings with people who conspired to violate the law. Similarly, the mere fact that two persons are on trial together cannot be considered in any way as indicating that they participated in a conspiracy to violate the law.

All of the conspirators need not be acquainted with one another. They may not have previously associated together. One of the defendants may know only one other member of the conspiracy. But if he entered into an unlawful agreement with that other member of the conspiracy, he has become a party thereto.

To conclude that a defendant was a member of a conspiracy, you must find that he knew the unlawful purpose of the alleged conspiracy, that, knowing the purpose, he intentionally joined in the endeavor and that he had an interest in

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making it succeed.

It is not necessary, however, that you find that each conspirator was fully informed as to the details or the full scope of the conpsiracy or participated in every aspect of the conspiracy. A person becomes a member of a conspiracy by associating himself with a common plan or scheme, knowing the central aim or principal purpose of that common plan or scheme and intending to help bring about its success.

As is the case with every count of the indictment, in order to find a defendant guilty on the conspiracy count, you must find beyond a reasonable doubt that the defendant acted knowingly and wilfully. Specifically, you must find that the defendant knowingly and wilfully became a participant in the conspiracy with knowledge of its unlawful purpose.

I have already explained the requirement of knowledge of the unlawful purpose. I now direct your attention to the terms "knowingly" and "wilfully", and I will try to explain what they mean.

You should remember these definitions and apply them in connection with the other counts in the indictment.

An act is done knowingly if it is done voluntarily and purposefully and not because of mistake, inadvertence or for any other innocent reason. An act is wilful if it is done knowingly, deliberately and with an evil purpose.

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An act is not done wilfully if it is done as a result of mistake, carelessness, lack of evil motive or purpose or for some other innocent reason. It is not necessary for you to find that a defendant knew he was breaking a particular law, and whether or not an act is knowing or wilful has nothing to do with a defendant's personal or private reasons for committing the act, so long as the act was done with an evil purpose.

Now, knowledge and wilfulness and intent exist in the mind. Since it is not possible to look into a man's mind to see what went on, the only way you have to arrive at a decision on those questions is for you to take into consideration all the facts and circumstances shown by the evidence, including the exhibits, and to determine from all such facts and circumstances whether the requisite knowledge, wilfulness and intent were present at the time in question.

In making this determination, you should presume that a person intends the natural and probably consequences of his acts.

Now, once you have found that a conspiracy existed and a particular defendant had knowingly and wilfully participated in it with knowledge of its unlawful purpose, the extent of his participation has no bearing on his guilt or innocence. The guilt of a conspirator is not measured by the

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extent or duration of his participation, even if he participated in it to a degree more limited than that of his co-conspirators. He is equally culpable as long as in fact he was a conspirator.

Now we come to the third element you must consider as to Count 1. If you have found that the alleged conspiracy existed and that the defendant whose guilt you are considering was a member of it, then you must consider the overt act requirement.

The offense of conspiracy is complete when the unlawful agreement is made and a single overt act is done by one of the alleged conspirators in furtherance of the conspiracy.

By the term "overt act" we mean an act committed in an effort to accomplish some object or purpose of the conspiracy. The overt act in this sense need not be a crime in itself. It must, however, be an act which follows from the conspiracy and is directed towards accomplishment of the criminal purpose of the conspiracy.

Now, let me read the overt acts which are charged in the indictment. The indictment as to that reads as follows:

"In furtherance of said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

"1. On or about September 20, 1973, the defendants,

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Charles Hodges, Daniel Jordano, Andrew Jordan, also known as Andrew Jordano, and Anthony Muffucci, had a meeting in an apartment in Yonkers, at which time they discussed the robbery plant.

"2. On or about September 21, 1973, the defendants, Charles Hodges, Daniel Jordano, Andrew Jordan, also known as Andrew Jordano, and Anthony Muffucci, went to a diner on Yonkers Avenue in Yonkers, New York, and waited for a telephone call notifying them that Corbia had left the bank with the money.

"3. On or about September 21, 1973, at Yonkers Avenue, Yonkers, New York, the defendant Charles Hodges took a bag containing approximately $36,500 from Ronald Corbia.

"4. On or about September 23, 1973, the defendant Charles Hodges placed the b ag containing approximately $36,500 which he took from Ronald Corbia in a 1973 blue Cadillac automobile with a white top.

"5. ON or about September 21, 1973, the defendants Charles Hodges and Daniel Jordano drove in a white Vega automobile to Fordham Road in the Bronx, New York, to give the defendant Charles Hodges his share of the money."

In addition, the Government must show that at least one overt act was committed in the Southern District of New York. I charge you that the Southern District of New York

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includes all of Yonkers and Mount Vernon, New York.

If you find beyond a reasonable doubt that a conspiracy existed as charged in the indictment and that during the existence of the conspiracy at least one of the overt acts alleged was knowingly done by one or more of the conspirators in furtherance of some object of the conspiracy, proof of the conspiracy offense is then complete. It is complete as to each defendant found by the jury beyond a reasonable doubt to have been knowingly and wilfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators committed the overt act.

While the indictment charges in Count 1 that the conspiracy began on or about July 31, 1973 and continued to the date of the filing of the indictment, which was July 26, 1974, I repeat that it is not essential that the Government prove that the conspiracy started and ended on or about those specific dates. It is sufficient if you find that in fact a conspiracy was formed and existed for some substantial time within the period set forth in the indictment and that at least one overt act was committed in furtherance thereof during that period.

Now, I have one final instruction for you in connection with the conspiracy count, and that concerns the way you ought to consider the acts and statements of alleged

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co-conspirators. If you find that a conspiracy existed, then in considering whether or not a particular defendant was a member of the conspiracy you may rely not only on his own statements but on the statements and declarations of the other alleged co-conspirators.

Moreover, if you find that a conspiracy existed, then any act done or declaration made during the conspiracy and in furtherance of it by a person found by you to have been a member of the conspiracy may be considered against any defendant who you find was also a member, even though such act or declaration was made in the absence and without the knowledge of that defendant.

Now, taking Count 2, which relates to the actual robbery on September 21, 1973, the defendants Daniel Jordano, Andrew Jordan and Anthony Muffucci are charged with having violated Title 18 United States Code, Section 2113(a), which provides as follows:

"Whoever by force or violence or by intimindation takes or attempts to take from the person or presence of another any property or money or anything of value belonging to or in the care, custody, control, management or possession of any bank is guilty of a crime."

Now let me read Count 2 to you. Count 2 reads as follows:

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"On or about the 21st day of September 1973, in the Southern District of New York, Charles Hodges, Daniel Jordano, Andrew Jordan, also known as Andrew Jordano, and Anthony Muffucci, the defendants, unlawfully, wilfully and knowingly, did by force, violence and intimindation take from the person and presence of another approximately $36,500 dollars belonging to and in the care, custody, control, management and possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation."

Now, in order to find the defendant guilty as charged in Count 2, you must determine whether the Government has established the following elements beyond a reasonable doubt:

First, that on or about September 21, 1973, the Yonkers Savings Bank, located at 801 Yonkers Avenue, Yonkers, New York, was a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation;

Second, that on or about the date the defendants took from the bank money which belonged to it, the money was in the care, possession, custody, control or management of that bank;

Third, that the money was taken from the person or presence of one or more persons other than the defendants,

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namely, an employee of the bank;

Fourth, that the defendants accomplished this taking by force and violence or by intimidation;

Fifth, that the acts were done wilfully and knowingly.

Now, as to the first element, you are to determine whether the evidence before you established that on or about September 21, 1973, the Yonkers Savings Bank was a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

The second element is also a factual matter for you to determine.

As to the third element, that the money was taken from the person or presence of an employee of the bank, a few more words may be helpful.

If you find that a bank employee was guarding the money at the time the robbery took place, you must find that the third element has been proved.

With respect to the fourth element, the Government is not required to show that force and violence were actually used against anyone if it proves beyond a reasonable doubt that the taking was a result of intimidation.

To take or attempt to take by intimidation means actually to take or attempt to take by putting in fear of

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bodily harm. Such fear must arise from the wilful conduct of the accused rather than from some mere temperamental timidity of the victim. However, the fear of the victim need not be so great as to result in terror, panic or hysteria.

A taking or an attempted taking by intimidation must be established by one or more acts or statements of the accused which were done or made in such a manner and under such circumstances as would produce in the ordinary person fear of bodily harm. However, actual fear need not be proved. Fear, like intent, may be inferred from statements made and acts done or omitted by the accused and by the victim as well, and from all the surrounding circumstances shown by the evidence in the case.

In this case, of course, the Government contends that force and violence actually were used against the bank guard.

Regarding the fifth and last element, the Government must establish beyond a reasonable doubt that the defendant whose guilt or innocence you are considering acted knowingly and wilfully.

As I have already explained to you, an act is done knowingly if it is done voluntarily and purposefully and not because of mistake, inadvertence or other innocent reason. An act if it is done knowingly, deliberately and with an evil purpose is wilful.

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An act is not done wilfully if it is done as a result of mistake, carelessness, lack of an evil motive or purpose or for some other innocent reason.

I have already explained to you that knowledge, wilfulness and intent exist in the mind, and I told you how you ought to determine whether the requisite knowledge, wilfulness and intent were present at the time in question.

It is not necessary for the Government to show that the defendants physically committed the crime themselves. Section 2 of Title 18 of the United States Code provides, in pertinent part, as follows:

"Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission or whoever wilfully causes an act to be done which if directly performed by him or another would be an offense against the United States is guilty of that offense."

Thus, a person who aids and abets another to commit an offense is just as guilty of that offense as he would be had he committed it himself.

Before you can conclude that a person aided and abetted, you must first find that the substantive crime charged in this case -- the taking of the bank's money through force and violence or by intimidation -- was in fact committed.

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Secondly, you must determine that the defendant in some way associated himself with a criminal venture, that he participated in it as something he wished to bring about and that by his actions he tried to make the crime succeed. You must find more than the defendant's mere presence during or knowledge of the offense.

The one who aids or abets another in the commission of a crime is equally guilty with the person who actually and physically commits it. Therefore, if you find beyond a reasonable doubt with respect to Count 2 and, later on, with respect to Count 3 of the indictment that each defendant aided and abetted others in the commission of the crime, you may find each of the defendants guilty of that offense.

Count 3 of the indictment charges the defendants with a violation of Title 18 United States Code, Section 2113 sub (b), which provides, in pertinent part, as follows:

"Whoever takes and carries away with an intent to steal or purloin any property or money or any other thing of value exceeding $100.00 belonging to or in the care, custody, control, management or possession of any bank is guilty of a crime."

Now, let me read Count 3, the final count of the indictment. Count 3 reads as follows:

"On or about the 21st day of September 1973, in the

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Southern District of New York, Charles Hodges, Daniel Jordano, Andrew Jordan, also known as Andrew Jordano, and Anthony Muffucci, the defendants, unlawfully, wilfully and knowingly, with intent to steal and purloin, did take and carry away approximately $36,500 belonging to and in the care, custody, control, management or possession of the Yonkers Savings Bank, 801 Yonkers Avenue, Yonkers, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation."

Now, in order to find the defendants guilty of the charge in Count 3, you must find the following facts beyond a reasonable doubt:

First, that on or about September 21, 1973, the Yonkers Savings Bank, at 801 Yonkers Avenue, Yonkers, New York, was a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation;

Second, that the defendants took and carried away approximately $36,500 which belonged to or was in the care, custody, control, management or possession of that bank;

Third, that the taking and carrying away was with an intent to steal and purloin;

Fourth, that the defendants acted unlawfully, wilfully and knowingly.

Now, as to the first element, as I have instructed

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you, you are to determine whether the evidence establishes that on or about September 21, 1973, the Yonkers Savings Bank was a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation.

The second element -- whether the defendants took and carried away the money which belonged to the bank -- needs no explanation, for it is a factual matter which you must decide.

The third element requires the Government to prove beyond a reasonable doubt that the defendant took the money with an intent to steal and purloin.

The word "steal" has a broad meaning, and it means an unlawful taking of property without the consent of the owner and with the intent to deprive the owner of his property.

"Purloin" is just another word for "steal".

In making this determination, you should presume a person intends the natural consequences of his acts.

I have explained the meaning of "wilful" and "knowledge".

"Unlawful" means contrary to the law.

I also remind you that you need not find that the defendant you are considering physically himself carried away the money. It is enough if you find the defendant aided and abetted another in the commission of a crime.

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I have now completed my charge about the specific crimes alleged in the indictment. I will now address myself to more general considerations which you must bear in mind during your deliberations.

First, I must emphasize again there are three defendants on trial here, and as to each count you must consider separately whether the specific defendant charged in that count has been proved guilty of a crime beyond a reasonable doubt. It is your duty to give separate personal consideration to the case of each defendant. When you do so, you should analyze what the evidence in the case shows with respect to that defendant, leaving out of consideration entirely any evidence admitted solely with regard to the other defendants.

Each defendant is entitled to have his case determined from the evidence as to his own acts and statements and conduct and any other evidence in the case which may be applicable to him.

The fact that you may find one or more of the accused guilty or not guilty on a particular count should not influence your verdict with respect to the other defendants or with respect to any other count.

Now, the Government called as a witness Charles Hodges, who, if his testimony is to be accepted, was an accomplice in the crime charged against the defendant in this case.

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In the prosecution of a case, the Government is frequently called upon to use witnesses who are accomplices. Often it has no choice. The Government must rely upon witnesses to transactions such as they are.

Kenneth Williams has made the same admission of culpability. Now, the fact that Williams and Hodges have been convicted of a serious crime, especially one bearing on their veracity, may be considered by you as bearing on their credibility as witnesses in this case.

There is no requirement in the Federal Courts that the testimony of an accomplice be corroborated. The Government contends that Williams' and Hodges' testimony is corroborated on the evidence with respect to several key portions of their testimony. However, even without such corroboration, conviction may rest upon the testimony of accomplices if you believe it and find it to be credible. Nevertheless, you should note that an accomplice's testimony implicating the defendant as a perpetrator of a crime is inherently suspect, for such a witness may have an important stake in the outcome of the trial.

An accomplice so testifying may believe that the defendant's acquittal will vitiate expected rewards that may have been, either explicitly or implicitly promised him in return for his plea of guilty and his testimony. An accomplice,

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however, should be viewed with caution and scrutinized with care. The fact that a witness is an accomplice may be considered by you as bearing on his credibility. Was his testimony inspired by any motive of reward, of self interest or hostility to the defendants so that he gave false or colored testimony against them in this court before you? If you find that it was, you ought unhesitatingly to reject it.

However, after a cautious and careful examination of the accomplice's testimony and his demeanor upon the witness stand, if you are satisfied that he told the truth here as to certain events, there is no reason why you should not accept it as credible and act upon it accordingly.

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It does not follow that because a person has acknowledged participation in crimes charged against the defendants he is incapable of giving a true version of what he testified to in the case on trial. As to whether his version is true is for you to decide.

Evidence has been introduced tending to establish an alibi, which amounts to a contention that the defendants were not present at the time when or at the place where they are alleged to have committed the offense charged in the indictment. If after considering all the evidence in this case you have a reasonable doubt as to whether the defendant was present at the time and place the alleged offense was committed you must acquit him.

The jury will also bear in mind that the law never imposes upon the defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. The defendant is under no obligation to prove or establish his alibi beyond a reasonable doubt.

Daniel Jordano and Anthony Muffucci have not taken the stand to testify. As I told you before, the Government has the burden of proving the charges against each defendant beyond a reasonable doubt. A defendant does not have to prove his innocence. A defendant has the right to remain silent. He does not have to testify or present any evidence in his

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behalf, and you may not draw any inference or conclusion or form any prejudice because a defendant did not testify or present evidence.

On the other hand, the law permit s the defendant to testify in his own behalf if he wishes to do so, and Andrew Jordan has elected to testify. The testimony of a defendant must be considered by you as would the testimony of any other witness. You must determine the credibility of a defendant who testifies. In doing so you must consider the deep personal interest which every defendant has in the outcome of his case. Indeed, it is fair to say that any defendant has the greatest stake in the outcome. Since a defendant's interest in the result of his trial is of a character possessed by no other witness, that interest requires that you receive such testimony with caution.

However, it by no means follows that simply because a person has a vital interest in the end result that he is incapable of telling a truthful, candid and straightforward story. It is for you to decide to what extent, if at all, his interest has affected or colored his testimony.

Now, under your oath as jurors you cannot allow consideration of the punishment which may be inflicted upon a defendant if he is convicted to influence your verdict in any way or in any sense to enter into your deliberations. The

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duty of imposing sentence rests exclusively upon the Court. Your function is to weigh the evidence in the case and to determine the guilt or innocence of a defendant solely upon the basis of such evidence and the law. You are to decide the case upon the evidence and the evidence alone, and you must not be influenced by any assumptions, conjecture or sympathy or any inference not warranted by the facts.

If you fail to find beyond a reasonable doubt that the law has been violated, you should not hesitate for any reason to find a verdict of acquittal; but, on the other hand, if you find that the law has been violated as charged, you should not hesitate because of sympathy or any other reason to render a verdict of guilty.

I would like to point out to you that you should not enter the jury room with any preconceived pride of opinion. You should not be unwilling to be convinced by intelligent argument with your fellow jurors. Each juror has to answer to his or her own conscience, and each has to decide this case for himself or herself; but in so doing you should be willing to consider the views of the other jurors and to talk things out and to try your best to reach a unanimous agreement.

Your verdict must be one with which each juror agrees.

During your deliberations, if you desire to have a

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copy of the indictment or desire any exhibits, they will be sent to you upon request. If you wish any portion of the testimony read or any portion of the Court's charge reread, that will be done.

In conclusion, let me say that every criminal case is important. It is important to the defendant and it is important to the Government.

It is your obligation to decide the case on the evidence and on the law as I have charged it to you.

I give the case to you with the confidence that you will do just that.

All right. We will now retire to the robing room.

(In the robing room:)

MR. LaROSSA: I have no exceptions to the charge other than what I have expressed previously about your Honor's refusal to charge the requests I submitted.

MR. GOLUB: Your Honor, if I remember correctly, I believe you said you were going to charge the alibi charge.

THE COURT: I did.

MR. GOLUB: I have nothing.

THE COURT: I charged exactly as you gave it to me, Mr. Golub.

MR. SCANLAN: No exceptions, your Honor.

MR. HEMLEY: I have no exceptions. I have a request.

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I can't find it now.

I would ask your Honor on the alibi charge to also charge that while the defendants don't have any burden to prove or establish an alibi beyond a reasonable doubt, if the alibis are suspect, they should take that into consideration when they deliberate.

THE COURT: I can't do that.

MR. HEMLEY: I think the charge was fair, but I don't think this particular alibi charge was representative.

THE COURT: You should have argued that before, because I told you I was going to charge it.

(In open court:)

THE COURT: Mr. Clemencon and Mr. Hasset, your duties are now over, and I want to thank you for your participation. You may now be excused.

(The alternate jurors left the courtroom.)

(The deputy marshal was duly sworn.)

THE COURT: Ladies and gentlemen of the jury, I am giving the marshal a special verdict for you to have, so the jury can record its findings.

You may now retire.

(The jury left the courtroom in the custody of the deputy marshal at 4:09 p.m. to commence deliberating upon a verdict.)

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MR. HEMLEY: Will your Honor indulge me for a moment while I read into the record the 3500 material that I have given to the defendants? This was all prior to the testimony of the witness to --

MR. LaROSSA: I will stipulate to it.

THE COURT: Can we agree, gentlemen, if they want any exhibits or the indictment, that they can have that without my coming downstairs?

MR. LaROSSA: Absolutely, but I will be here, and I would like to make sure that only the right exhibits go in. I don't see any reason why you have to come down.

MR. HEMLEY: Yes, your Honor.

THE COURT: All right, gentlemen. We will wait.

MR. HEMLEY: This is a statement of the 3500 material delivered to the defendants. I have the stipulation of the defense counsel that this is an accurate statement of the 3500 material that was turned over to them for the testimony of the witnesses.

3501, the grand jury testimony of Corbia, dated September 26, 1973.

3502, Williams' grand jury testimony, July 16, 1974.

3503, Williams' grand jury testimony, July 16, 1974.

3504, Williams' court appearance, July 16, 1974.

3505, FBI report regarding Mullins, dated September

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21, 1973.

3506, statement of Daniel Jordano to assistant United States Attorney Hemley, dated August 5, 1974.

3507, FBI report regarding Troiano, dated September 21, 1973.

3508, FBI report regarding Christine Dial, dated March 27, 1974.

3509, statement by Occhione to Nesland.

3510, FBI statement dated September 21, 1973, or Occhione.

3511, statement of Novotny to the FBI dated September 21, 1973.

3512, interview of Novotny by Nesland.

3513, report of Mr. Keefe, dated January 13, 1974.

3514, FBI report regarding Keefe, January 9, 1974.

3515, FBI report on Corbia, December 28, 1973.

3516, FBI report on Corbia, January 9, 1974.

3517, FBI report on Corbia dated September 21, 1973.

3518, pre-arraignment statement of Williams dated September 21, 1973.

3519, FBI statement regarding Williams, dated September 21, 1973.

3520, second FBI report dated September 21, 1973, regarding Williams.

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3521, a report on Williams dated September 21, 1973.

3522, statement of Williams dated September 13, 1974.

3523, statement of Williams dated October 23, 1974.

3524, grand jury testimony of Christine Dial, July 23, 1974.

3525, FBI report regarding William,s dated September 13, 1974.

3526, FBI report regarding Williams dated September 13, 1974.

3527, FBI report regarding Kahn, dated March 25, 1974.

3528, Donald Hodges' grand jury testimony, July 23, 1974.

3529, Charles Hodges' statement of Hemley, October 15, 1974.

3530, Charles Hodges' FBI report, December 26, 1973.

3531, another FBI report on Charles Hodges, December 26, 1973.

3532, Charles Hodges' grand jury testimony, February 7, 1974.

3533, Charles Hodges' statement to Vesland dated January 31, 1974.

3534, FBI report on Willis, September 27, 1973.

3535, Summary FBI report on Willis, dated September 27, 1973.

3526, FBI report on Willis dated November 13, 1973.

3537, grand jury testimony of Willis, July 3, 1974.

3538, FBI report, undated, apparently, on Donald Hodges.

3539, general FBI report, undated, on Hodges and Willis.

3540, Williams' grand jury testimony, July 17, 1974.

3541, statement of FBI about Abbato, July 31, 1974.

3542, FBI report regarding Weinstein, dated October 15, 1974.

3543, interview of Willis at Yorktown Police Department.

3544, letter by Hemley to defense counsel, dated November 4, 1974.

3545, FBI statement regarding Willis, undated.

3546, statement of Hodges' guilty plea.

It is also stipulated among defense counsel and the United States Attorney that they have each received a copy of a memorandum dated November 21, 1974, entitled Government's Memorandum of Law re testimony of Nancy Willis, at the second trial.

It is also stipulated and agreed that they received,

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prior to the commencement of this trial, the transcript of the Government's direct case in the first trial of Indictment 74 Cr 764, which commenced on November 4, 1974.

(Recess.)

(In the absence of the jury:)

THE COURT: The jury wants to have a copy of the indictment, which I gather was sent in.

THE CLERK: Not yet, your Honor.

THE COURT: A copy of my charge as it deals with the substantive -- the three counts of the indictment. They want Fielding's and Willis' testimony read.

MR. HENLEY: In their entirety?

THE COURT: That is what they say. I will make some inquiry of the forelady when they come in.

MR. LaROSSA: I respectfully request that you don't do that, your Honor. If they have asked for the testimony, it should be read.

MR. HENLEY: I don't object to their hearing the whole thing.

THE COURT: All right. Bring in the jury.

(Jury in box:)

THE COURT: You have asked for a copy of the indictment, and you want the substantive counts -- my charge as it deals with the substantive counts of the indictment read, and

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NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
UNITED STATES OF AMERICA,

v.

No. 74 CR 764

DANIEL JORDANO, et al.,

Defendants.
----------X

S I R :

PLEASE TAKE NOTICE that the defendant, DANIEL JORDANO, hereby appeals to the United States Court of Appeals for the Second Circuit from a judgment of conviction entered against him by the Hon. Robert L. Carter on January 28th, 1975, wherein the defendant was sentenced on his conviction of violating Title 18, United States Code, Sections 2113 and 371, to five years imprisonment on each count, the terms to run concurrently.

Dated: New York, New York
January 28th, 1975

Yours, etc.

LA ROSSA, SHARGEL & FISCHETTI
Attorneys for Defendant
DANIEL JORDANO
Office & P.O. Address
522 Fifth Avenue
New York, New York 10036
687-4100

TO:
HON. PAUL J. CURRAN
United States Attorney
Southern District of New York
United States Courthouse
Foley Square
New York, New York

Defendant's address:
2665 Grand Concourse
Bronx, New York